This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

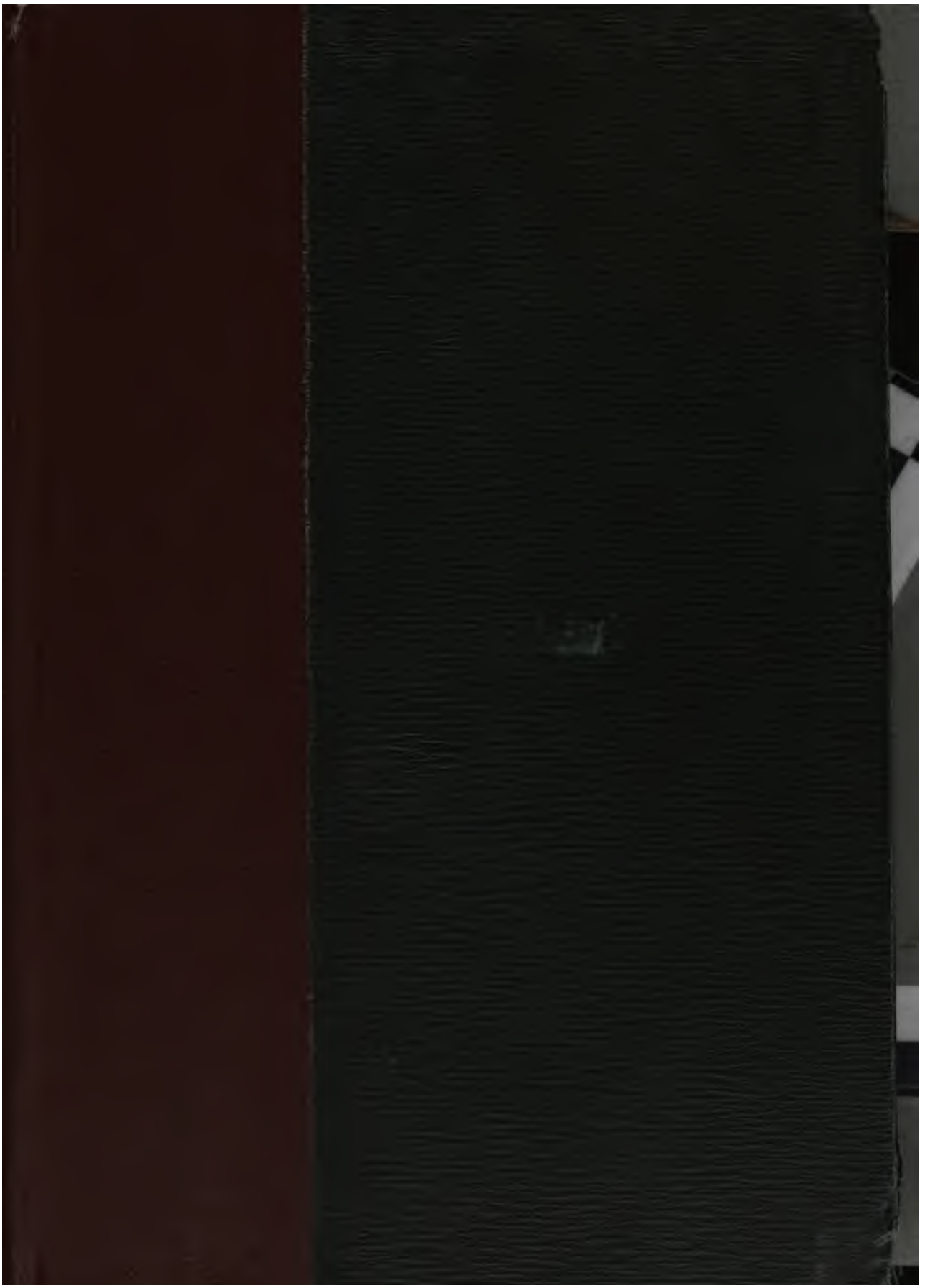
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`



PS
182
H

THE WRITINGS

OF

JAMES MADISON

VOLUME II.

1783-1787

Of this Letter-press Edition

750 Copies have been Printed for Sale

*No.*_____

G. P. Putnam's Sons

December, 1901

THE WRITINGS

OF

JAMES MADISON

COMPRISING HIS PUBLIC PAPERS AND HIS PRIVATE CORRESPONDENCE, INCLUDING NUMEROUS LETTERS AND DOCUMENTS NOW FOR THE FIRST TIME PRINTED

EDITED BY

GAILLARD HUNT

VOLUME II.

1783–1787

G. P. PUTNAM'S SONS

NEW YORK
27 WEST TWENTY-THIRD STREET

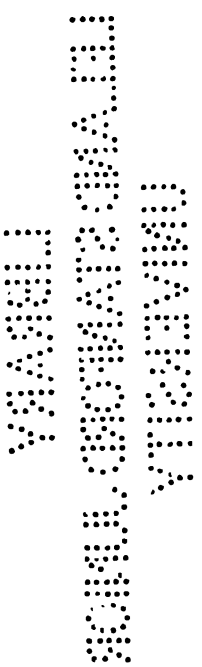
LONDON
24 BEDFORD STREET, STRAND

The Knickerbocker Press

1901

The Knickerbocker Press, New York

98307



CONTENTS OF VOLUME II.

PAGE

Chronology XV

1783.

To Edmund Randolph, July 8th 2
Impost in the Assembly—Nathan award—Place of sitting of Congress.

To Edmund Randolph, July 15th 2
Attachment of Philadelphia to Federal Government.

To Edmund Randolph, July 28th 3
Return of Congress to Philadelphia—Seat of Federal Government—The definitive treaty of peace.

To Thomas Jefferson, August 11th 5
The definitive treaty—Dana's mission to Russia—Ratification of treaty with Sweden—The peace establishment—Fate of the budget.

To Edmund Randolph, August 12th 8
Penurious spirit of Massachusetts—Statue voted for General Washington—His counsel sought.

To Edmund Randolph, August 18th 9
Seat of Government—Letters from Laurens—South Carolina agrees to the impost.

To Edmund Randolph, August 24th 10
Carleton's evacuation of New York.

To Edmund Randolph, August 30th 11
British pamphlet on the subject of commercial treaty—Seat of Federal Government.

To James Madison, August 30th 13
Evacuation of New York—Seat of Federal Government.

PAGE

To James Madison, September 8th 14
His mother's health—His slave Billy.

To Edmund Randolph, September 8th . . . 15
The definitive treaty—Seat of Federal Government—Sale of land warrants in Virginia.

To Edmund Randolph, September 13th . . . 17
Prospects of a commercial treaty.

To Edmund Randolph, September 20th . . . 18
The Virginia cession.

To Thomas Jefferson, September 20th . . . 18
Territorial cession and seat of Federal Government—Personal plans—The peace establishment—Election of a secretary to Congress—A tax on department of finance—Investigations of mutiny.

To Edmund Randolph, September 30th . . . 22
Reception of the Dutch Minister—Rule concerning prizes.

To Edmund Randolph, October 13th . . . 24
Permanent seat of Congress—Arrival of Van Berkel.

To Thomas Jefferson, December 10th . . . 27
Attitude of Mason towards the impost and the territorial cession—Prospects of a convention for revising the Form of government—Course of reading—Shape of the earth.

1784.

To Edmund Randolph, March 10th 30
Course of reading—Extradition case of George Hancock.

To Thomas Jefferson, March 16th 34
Obligation to ratify a Minister's act—Number of votes necessary to ratify a treaty of peace—Cession of territory—The Virginia council of State—Free navigation of the Potomac and boundary of Maryland—Negotiations with Maryland proposed—Books on government—Pair of spectacles ordered—Extradition with South Carolina.

To Thomas Jefferson April 25th 46
Movements of Mazzei—Mazzei's opinion of public men—Navigation of the Potomac—Subterraneous city in Siberia.

PAGE

To James Madison, May 13th 50
Jefferson's appointment.

To Thomas Jefferson, May 15th 51
Revisal of State constitution—Election of Speaker.

To James Madison, June 5th 52
Tobacco accounts.

To James Madison, June 24th 53
Tobacco accounts.

Notes of speech on proposed amendment to Virginia constitution, June . . . . . 54, n.

To Thomas Jefferson, July 3d 56
Taxation in Virginia—Ports of entry—Agitation for federal convention—General assessment for religious purposes proposed—Sale of public lands—Efforts for Thomas Paine—Negotiations with Maryland for Potomac—Education of Jefferson's nephew—Confusion in revenue department.

To George Washington, August 12th . . . 63
Efforts in behalf of Thomas Paine.

To Thomas Jefferson, August 20th 64
Footing of the British debts—Ports of entry—Prices in Virginia—The damage to crops—Free navigation of the Mississippi—Spain will not persist in her present attitude—Discussion of the subject—Jobs for Kentucky lands—Education of Jefferson's nephew.

To James Madison, September 6th 76
Journey with Lafayette.

To Thomas Jefferson, September 7th . . . 77
Journey with Lafayette—Opinion of his talents.

To Thomas Jefferson, October 11th 79
Trip to Ft. Stanwix—Treaty with the Indians.

To Thomas Jefferson, October 17th 82
Negotiations by Lafayette with Indians.

To James Monroe, November 87
Changes in the council.

Notes of speech against assessments for support of religion, November 88

PAGE

To James Monroe, November 14th 89
Proposed treaties with Southern Indians—Surveys of Potomac and James rivers—General assessment.

To James Monroe, November 27th 91
New York's negotiations with the Indians—Authority of Congress and of the States—Insult to Marbois—Bill for religious assessment.

To James Madison, November 27th 94
Bill for confirming surveys.

To James Madison, December 3d 95
Payment of British debts—Bill for general assessments.

To James Monroe, December 4th 96
Establishment of circuit courts—Bill to carry out treaty of peace—General assessments—Bust of Lafayette.

To James Monroe, December 24th 98
Rejection of Impost—Act to surrender fugitives from justice—Bill for assize courts—General assessment.

To Richard Henry Lee, December 25th 99
Rejection of impost—Continental convention project.

Resolutions touching the navigation and jurisdiction of the Potomac, December 28th 100

Bill for opening roads . . . . . 101, n.

1785.

To Thomas Jefferson, January 9th 102
Acts passed by the Assembly—British debts—Difficulty of adjourning the House—Rejection of the impost—Changes in the Government—Amendment of State constitution—Education of Jefferson's nephews.

To Marquis de Lafayette, March 20th 120
Free navigation of Mississippi—Settlements of Western territory—Discussion of the Mississippi question—Kentucky's desire for independent government.

To James Munroe, March 21st 127
Office of Foreign Affairs—Independence of Kentucky.

PAGE

To James Monroe, April 12th 129
John Adams's appointment—Maury's station—Asks for news about impost—Changes in articles of confederation—General assessment—Cypher.

To Thomas Jefferson April 27th 132
Books desired—Tax on transfers of land—Kentucky convention—Washington's shares in Potomac and James River companies—Meeting of Virginia Potomac Commissioners with Maryland Commissioners—General assessment—Opposition to Harrison—Mississippi question—Jefferson's nephews—Prices of grain, tobacco and fruit.

To James Monroe, April 28th 142
Result of elections—Disorders of currency.

To James Monroe, May 29th 143
The western posts and the Mississippi question—Separation of Kentucky—Allotment of land for religious purposes—General assessment.

To James Monroe, June 21st 146
General assessments—Commissioners from Georgia to Governor of New Orleans—Commercial discontent in Boston—Prices of tobacco—The port bill and Arthur Lee.

To Richard Henry Lee, July 7th 149
Separation of Kentucky—Arrival of Gardoqui—Conditions of trade.

To Edmund Randolph, July 26th 152
General assessment—Negotiations with Maryland—Remonstrance against general assessments—Desire to live without slaves.

To James Monroe, August 7th 155
Regulations of trade—Policy of Great Britain.

To Thomas Jefferson, August 20th 160
Machinations of Great Britain with regard to commerce—Want of federal spirit—Growth of internal trade—Estimate of Lafayette—General assessment—Crops of corn and tobacco.

To Caleb Wallace, August 23d 166
Ideas of constitution.

PAGE

To Thomas Jefferson, October 3d 178
Federal finances—Requisitions of Congress—Federal authority to regulate trade—Arrival of Franklin—Washington's interest in the Potomac—Rumsey's invention.

Memorial and remonstrance against religious assessments 183

To George Washington, November 11th . . . 191
Harrison's election—Arthur Lee's election—The revised code—Project for general manumission—Assize and port bills.

To James Madison, November 18th 194
Progress of the revisal—Delegates to Congress for 1786.

Notes for speech in the Virginia House of Delegates on commercial regulations, November . . 194

To George Washington, December 9th . . . 196
Discussion of commercial propositions—Harmony in commercial regulations between Maryland and Virginia—Progress of the revisal—Assize and port bills—Separation of Kentucky.

To James Monroe, December 9th 201
Federal power over trade—Convention of Commissioners from the States for deliberating on commerce—Progress of the revisal—The Memorial of Kentucky.

To Ambrose Madison, December 15th . . . 203
Rejection of the assize bill—Repeal of the act permitting masters to free their slaves.

To James Monroe, December 17th 204
Defeat of the assize bill—Progress of the bill for establishing religious freedom.

To James Monroe, December 24th 205
Proceedings of the Assembly—Bill for payment of British debts—Bill for reforming the county courts.

To James Madison, December 24th 207
Bill for payment of British debts—Price of tobacco—Bill for establishing religious freedom—Personal debts.

To James Madison, December 27th 209

To James Monroe, December 30th 210
Discussion of British debts—Disparagement of the treaty of peace—Reform of the county courts.

1786.

PAGE

Petition against Church Establishment . . . 212

To Thomas Jefferson, January 22d 214
Jefferson's notes on Virginia—Close of the session of the Assembly—Review of acts passed.

To James Monroe, January 22d 222
Close of the session of the Assembly—Amendment of the port bill not passed—Failure of navigation system—Appointment of commissioners to meet commissioners from other States to discuss commercial regulations—Requisitions of Congress.

To Thomas Jefferson, March 18th 224
Plans for Virginia capitol—Review of books received—Commercial convention to meet at Annapolis—Commercial evils—Danger of foreign machinations—Prices of tobacco and grain—Account for books with Jefferson.

To James Monroe, March 19th 231
Joint land purchase—Vices of the confederation—Prospects of the convention.

To James Monroe, April 9th 234
Joint land purchase—Gloomy prospects for continuance of Union.

To Thomas Jefferson, May 12th 236
Jefferson's notes on Virginia—Inscription on Houdon's statue of Washington—Results of State election—Mason's attitude—Internal situation in Virginia—Indian warfare in Kentucky—Discussion of Buffon.

To James Monroe, May 13th 242
Prospects of Annapolis convention—Mason's anti-federal prejudices.

To James Monroe, June 4th 244
Kentucky separation—Indebtedness of the people.

To Thomas Jefferson, June 19th 246
Populousness and means of subsistence—Crop conditions—Desires book on chemistry—Comparison of weasel with belette and ermine.

To James Monroe, June 21st 253
The Mississippi question.

PAGE

To Thomas Jefferson, August 12th 257
Crop conditions—Improvement of navigation of Potomac—General rage for paper money—Convention for amending the confederation—Danger from closing the navigation of the Mississippi—Invites Jefferson to share in land purchases.

To James Monroe, August 17th 268
The Mississippi question.

To Ambrose Madison, September 8th 269
Needs money—The Annapolis meeting.

To James Monroe, September 11th 270
The Mississippi question—Results of the Annapolis meeting.

To James Monroe, October 5th 272
The Mississippi question—Joint purchases of land—Requests time to repay Monroe's loan.

To James Monroe, October 30th 275
The Mississippi question in the legislature—Candidates for Governor of Virginia.

To James Madison, November 1st 276
Paper money discussed in Legislature—Danger from Indians—The Mississippi question.

Speech in the Virginia House of Delegates on Paper Money 279

To George Washington, November 1st 282
Paper money—The Mississippi question.

To George Washington, November 8th 283
Agreement to Annapolis recommendation—Elections in Virginia.

To Henry Lee, November 9th 284
Lee's defeat for Congress.

From Henry Lee, December 20th . . . . . 284, n.
His defeat for Congress.

To James Madison, November 16th 286
Currency bills.

To Henry Lee, November 23d 286
Friendship for Lee—Causes of Lee's defeat.

PAGE

To James Madison, November 24th 289
Tobacco receivable for taxes.

To Thomas Jefferson, December 4th 289
Compliance with recommendation of Annapolis meeting—Deputies for Virginia—The Mississippi question—Rejection of repudiation scheme—The revised code—Education bill—Reform of courts—Treasury empty—Harrison's defeat—Prices.

To George Washington, December 7th . . . 295
Washington's selection as a delegate to the federal convention—The Mississippi question—Henry's anti-federalism—Tobacco as a commutable.

To James Madison, December 17th 298
Rates of indents—Personal movements.

To James Monroe, December 21st 299
Pays Monroe $100—No news about federal convention.

To George Washington, December 24th . . . 300
Washington's acceptance of service in the federal convention—Tobacco as a commutable.

1787.

To Edmund Pendleton, January 9th 303
Reform of the courts—The revised code—Rage for high duties—Sedition in Massachusetts.

To Thomas Jefferson, February 15th 307
Proceedings of legislature since December 4th—Jefferson's personal affairs.

To George Washington, February 21st . . . 313
Infractions of treaty of peace—Prospects of federal convention—Commotion in Massachusetts quelled.

To Edmund Pendleton, February 24th . . . 316
Conditions in Massachusetts—Prospects of federal convention—States which will send delegates—Failure of the requisitions.

To George Washington, March 18th 230
Vocabulary of Choctaw and Cherokee Indians for Empress of Russia—Delegates to federal convention—Conditions in Massachusetts—The Mississippi question.

PAGE

To Thomas Jefferson, March 19th (18th) . . . 324
Delegates to federal convention—Outlined plan for the new system.

To Thomas Jefferson, March 19th 328
The Spanish treaty and the Mississippi question—Protest of Van Berkel against Virginia privileges to France—Lincoln's expedition in Massachusetts—The Vermont question—Surveys of federal lands—Paper money in Virginia.

To Edmund Randolph, March 25th 333
Henry's anti-federalism—The Floridas—Jay's report on treaty of peace.

To James Madison, April 1st 334
Deputies to the approaching convention—The Mississippi question.

To Edmund Randolph, April 8th 336
Discusses plan of constitution.

To Edmund Randolph, April 15th 341
Washington as a delegate to the convention—Enforcement of treaty of peace—Seat of Congress—Spanish treaty.

To George Washington, April 16th 344
Discusses plan of constitution—Proceedings of Congress.

To James Monroe, April 19th 352
Seat of Congress.

To Edmund Pendleton, April 22d 353
Spirit of Massachusetts—Prospects of the convention—Enforcement of treaty of peace—Disposal of Western lands—Copper coinage agreed upon—Affairs with Spain.

To Thomas Jefferson, April 23d 357
Jay's report agreed to—Review of proceedings of Congress—Prospects of the convention.

Vices of the political system of the United States, 361
On Ancient and Modern Confederacies . . . 369
Origin of the Constitutional Convention . . . 391

CHRONOLOGY OF JAMES MADISON.

1783–1787.

1783. July to Dec.	In attendance on Congress.
1783. Dec.	Back in Orange.
1784. May 1.	Leaves Orange for Richmond.
1784. May 13.	In the House of Delegates.
1784. June.	Makes a Speech in favor of amending the State constitution.
1784. June 28.	Madison's bill for joint commissioners with Maryland to regulate navigation of the Potomac passed.
1784. July 1.	Madison appointed a commissioner for Virginia. Assembly adjourns.
1784. Aug.	At home in Orange.
1784. Sept. 1.	Makes journey from Baltimore with Marquis de Lafayette.
1784. Sept. 4.	Arrives in Philadelphia.
1784. Sept. 15 to Oct.	On journey to Indian treaty at Fort Schuyler with Marquis de Lafayette.
1784. Oct. 11.	Arrives in New York on his way to Virginia.
1784. Oct. 17.	In Philadelphia.

1784.	Attends session of the Assembly in Richmond.
Nov.	Makes speech against assessments for religious purposes.
1784. Dec. 28.	Madison's resolutions giving Potomac commissioners authority to ask co-operation of Pennsylvania in trade regulations passed.
1785. Jan. 8.	Assembly adjourns.
1785. Mar. to Sept.	At Home in Orange.
1785. Aug. 25.	Outlines plan of constitution for Kentucky to Caleb Wallace.
1785. Sept.	Goes to Philadelphia.
1785. Oct.	Writes the "Memorial and Remonstrance against Religious Assessments."
1785.	Attends session of Assembly in Richmond.
Nov.	Speaks on commercial regulations.
1786. Jan.	Writes remonstrance against incorporation of Episcopal church.
1786. Jan. 21.	Madison's bill for federal convention to consider commercial regulations passed and Madison named as a delegate.
1786. Feb. to Aug.	Assembly adjourns.
1786. Aug.	At home in Orange.
1786. Sept. 5.	Goes to Philadelphia.
1786. Sept. 11.	Arrives in Annapolis.
1786. Oct. 5.	Convention meets.
1786. Oct. 30.	In Philadelphia in interest of projected federal convention.
1786.	Returns to Richmond.
Nov.	Speaks in House of Delegates against paper money.

1786. Nov. 7.	Appointed delegate to serve in Congress till the first Monday in November, 1787.
1786. Dec.	Introduces in Assembly resolutions for appointment of delegates to federal convention.
1786. Dec. 5.	Named as a delegate to the convention.
1787. Jan. 15.	Sets out from Richmond for New York.
1787. Feb. 15.	In New York attending Congress.
1787. Mar. 19.	Outlines plan of constitution to Jefferson.
1787. April 8.	Outlines plan of constitution to Edmund Randolph.
1787. April 16.	Outlines plan of constitution to Washington.
1787. May 2.	Leaves New York for Philadelphia.

THE WRITINGS OF

JAMES MADISON.

TO EDMUND RANDOLPH. MAD. MSS.

PHILAD^{A}, July 8, 1783.

MY DEAR FRIEND,—Yours of the 28 of June like the preceding one found me at this place, where my preparations for leaving Cong^{s} will keep me much of the remainder of my time. The footing on which the Impost is placed by the Assembly is not an eligible one, but preferable to a total rejection. It is to be regretted that immediate use was not made of the impression of the letter from Genl W. The interval preceding the next Session will give full scope to malignant insinuations. The reversal of the award in the case of Nathan may possibly be just in itself; but it will require all your eloquence I fear to shield the honor of the State from its effects. The Agency which the Delegation had in the affair will impart no small share of the mortification to them. I suppose the feelings of Mr Jefferson & Mr Harrison also will not be much delighted by it.

Genl How is here with a corps of N. England

troops detached by G^{l} W. for the purpose of quelling the Mutiny. His only employment will now be to detect & punish the promoters of it. Cong^{s} remain at Princeton. Their removal from that place will soon become an interesting question. Not a few maintain strenuously the policy of returning to this City in order to obviate suspicions abroad of any disaffection in the mass of so important a State to the federal Gov^{t} and to restore mutual confidence with a State which has of late been so firm in adhering to federal measures. It is supposed too that a freer choice might have been made am^{g} the permanent seats offered by the States, than at a place where the necessity of a speedy removal w^{d} give undue advantage to an offer which happened to be in greatest readiness for immediate use. The Citizens here in general regret the departure of Cong^{s}, disavow the idea that they were unwilling to take arms in defence of Cong^{s}, and will probably enter into some declaration tending to invite their return.

We hear nothing from our Ministers in Europe. The evacuation of N. York, as to the time seems as problematical as ever. The sending off the negroes continues to take place under the eyes & remonstrances of the Inspectors of Embarkations.

TO EDMUND RANDOLPH. MAD. MSS.

PHILAD^{A}, July 15, 1783.

MY DEAR SIR,—Yesterday's post brought me no letter from you. The contents of the inclosed paper

make up every thing of consequence which I have for a subject at present. The enquiry into the Mutiny has not advanced far enough to bring forth any discoveries. An address is circulating & will be generally signed by the Citizens here reciting to Congress the proofs they have heretofore given of attachm^t^ to the fœderal Gov^t^ professing a continuance of that attachm^t^ and declaring their readiness to support the dignity & privileges of Cong^s^, in case the conveniency of this place for transacting the public affairs s^d^ give it a preference to others untill a final residence shall be fixed.

Mr Lee arrived here the day before yesterday and goes to Princeton to-day. Mr Mercer's indisposition carries him to the Sea board of N. Jersey. My absence not producing any chasm in the representation and some private business requiring my stay here, I shall not return to Princeton for 7 or 8 days.

TO EDMUND RANDOLPH. MAD. MSS.

[July 28, 1783.]

My Dear Sir,—Yesterday's mail brought me no letter from you. The Address from the Citizens of P^a^ came before Cong^s^ on thursday and was referred to a comm^e^ of 5 members. The answer will probably be a very civil one, but will leave open the question touching the return of Cong^s^ This question if decided at all in the affirmative, must be preceded by despair of some of the competitors for the permanent residence, almost all of whom now make a common

cause ag^st^ Philad^a^ It is not improbable that when the urgency of the scanty accommodations at Princeton comes to be more fully felt, with the difficulty of selecting a final seat among the numerous offers, N. Y. in case of its evacuation may be brought into rivalship with Philad^a^ for the temporary residence of Congress. My own opinion is that it would be less eligible as removing every thing connected with Cong^s^, not only farther from the South but farther from the Center, and making a removal to a Southern position finally more difficult than it would be from Philad^a^. Williamsb^g^ seems to have a very slender chance as far as I can discover. Annapolis I apprehend w^d^ have a greater number of advocates. But the best chance both for Maryland & Virg^a^, will be to unite in offering a double jurisdiction on the Potowmack. The only dangerous rival in that case will be a like offer from N. J. & P^a^ on the Delaware; unless indeed Cong^s^ s^d^ be carried to N. York before a final choice be made in which case it would be difficult to get them out of the State.

In order to prepare the way to their permanent residence Cong^s^ have app^d^ a Com^e^ to define the jurisdiction proper for them to be invested with. Williamsb^g^ has asked an explanation on this point. The nearer the subject is viewed the less easy it is found to mark the just boundary between the authority of Cong^s^ & that of the State on one side & on the other between the former & the privileges of the inhabitants. May it not also be made a question whether in constitutional strictness the gift

of any State, without the Concurrence of all the rest, can authorize Cong^{s} to exercise any power not delegated by the Confederation? As Cong^{s} it would seem are incompetent to every act not warranted by that instrument or some other flowing from the same source. I wish you could spare a little attention to this subject & transmit your ideas on it. Contrary to my intention I shall be detained here several weeks yet, by a disappointm^{t} in some circumstances which must precede my setting out for Virg^{a}.

There is considerable ground to believe that Carleton is possessed of the definitive Treaty. He has lately sent Cong^{s} several depositions relative to forgeries of Mr. Morris' Notes, the authors of which he has confined in N. York, & has requested that persons may be sent in to attend the examination.

The Court Martial is still proceeding in the investigation of the Mutiny, but have disclosed no result.

TO THOMAS JEFFERSON.

PHILAD^{A}, Aug. 11th 1783.

MY DEAR SIR,—At the date of my letter in April I expected to have had the pleasure by this time of being with you in Virginia. My disappointment has proceeded from several dilatory circumstances on which I had not calculated. My journey to Virg^{a} tho' still somewhat contingent in point of time cannot now be very long postponed. I need not I trust renew my assurance that it will not finally stop on this side of Monticello.

The reserve of our foreign Ministers still leaves us the sport of misinformations concerning the def: Treaty. We all thought a little time ago that it had certainly arrived at N. York. This opinion however has become extinct, and we are thrown back on the newspaper evidence which as usual is full of contradictions. The probability seems to be that the delay arises from discussions with the Dutch. Mr. Dana has been sorely disappointed in the event of his announcing himself to the Court of Russia. His written communications obtain verbal answers only & these hold up the Mediation to which the Empress, with the Emperor of G[erman]y have been invited as a bar to any overt transaction with the U. S. and even suggest the necessity of new powers from the latter of a date subsequent to the acknowledgment of their Sovereignty by G. B. Having not seen the letters from Mr. Dana myself, I give this idea of them at second hand, remarking at the same time that it has been taken from such passages only as were not in Cypher; the latter being not yet translated. Cong[s] remain at Princeton utterly undecided both as to their ultimate seat and their intermediate residence. Very little business of moment has been yet done at the new Metropolis, except a ratification of the Treaty with Sweden. In particular nothing has been done as to a foreign establishment. With regard to an internal peace establishment, though it has been treated with less inattention, it has undergone little discussion. The Commander-in-Chief has been invited to Princeton with a view to obtain his advice

and sanction to the military branches of it, and is every day expected there. The Budget of Cong^{s} is likely to have the fate of many of their other propositions to the States. Delaware is the only one among those which have bestowed a consideration on it that has acceded in toto. Several Legislatures have adjourned without giving even that mark of their condescension. In the Southern States a jealousy of Congressional usurpations is likely to be the bane of the system: in the Eastern an aversion to the half-pay provided for by it. New Jersey & Maryland have adopted the impost, the other funds recommended being passed for one year only by one of these States, and postponed by the other. P^{a} has hitherto been friendly to liberal and fœderal ideas and will continue so, unless the late jar with Cong^{s} s^{d} give a wrong bias of which there is some danger. Mass^{ts} has in the election of Delegates for the ensuing year stigmatized the concurrence of those now in place, in the provision for half-pay, by substituting a new representation; and has sent a Memorial to Cong^{s} which I am told is pregnant with the most penurious ideas not only on that subject but on several others which concern the national honor & dignity. This picture of our affairs is not a flattering one; but we have been witnesses of so many cases in which evils & errors have been the parents of their own remedy, that we cannot but view it with consolations of hope. Remind Miss Patsy of my affection for her & be assured that I am Dr Sir

Y^{r} Sincere friend

TO EDMUND RANDOLPH.

PHILAD^A, Aug: 12, 1783.

DEAR SIR,—The arrival of yesterday's mail has not enabled me to acknowledge the rec^t of a favor. Perhaps the post office may be again in fault.

Our late belief of the arrival of the Defin: Treaty at N. York has become utterly extinct. From the tenor of the Newspapers the delay seems to be the effect of discussions with the Dutch. The inclosed letter from our friend Hawkins provides for the article of Russian intelligence. I understand from Mr. Mercer who is here on business as well as myself that Mr. Dana's despatches were in part undecyphered when Mr. Hawkins' transcript was made. The Legislature of Ma^ts have sent a memorial to Congress wearing a very unpropitious aspect on the grant of ½ to the army and in other respects breathing a penurious spirit which if indulged will be fatal to every establishment that requires expence. They profess great poverty, and have declined any decision on the Revenue propositions of Cong^s. Rhode Island did not even bestow a consideration on them. Mr. H[owel]l from the latter State after being informed of the course taken by V^a said that her backwardness very much emboldened the States that were disinclined to a Genl Revenue. Cong^s have voted Genl W. an elegant Bronze Statue. He has been invited to Princeton as well to relieve him from the tedium which he suffers on the North River as to make use of his Counsel in digesting a peace Establishm^t. We shall probably be reinforced by Mr. Jones in a few

days. I shall give you notice when my departure will make it proper for your correspondence to be discontinued.

TO EDMUND RANDOLPH. MAD. MSS.

PHILAD^{A} Aug 18, 1783.

DEAR SIR,—I have not this week any more than the last the pleasure of acknowledging a favor from you. Perhaps I may find one at Princeton when I get there. On thursday a question for returning to Philad^{a} was put and decided in the Negative by a large majority. The friends of the measure foreseeing its fate, and supposing that a negative declaration c^{d} answer no good purpose and might an ill one, withdrew it. The more moderate opponents concurred in the inexpediency of proclaiming unnecessarily an aversion in Cong^{s} to Philad^{a}. But some of this class were so keen in their hostility, that a motion was made by two of them to return, who on the question voted agst their own motion. The public will not I believe fix on this proceeding as one of the brightest pages of the Journals? The abuses to which such an artifice may be extended are palpable. The merit of it in this application belongs to Mr. Howel of R. I. and Mr. B[lan]d of V. The motion was first made by Mr. L[ee] but in the course of the transaction devolved on Mr. Howel. I know of none that will read with pleasure this affair unless it be the Executive of P^{a} and those who wish to refer the removal of Cong^{s} to *other motives* than the national dignity & welfare.

Cong[s] have letters from Mr. Laurens of the 17th June but they decide nothing as to the definitive Treaty. We have no reason, howe̅r, to impute the delay to any cause which renders the event suspicious. It is said that the British Councils grow more & more wary on the subject of a Co̅mer[l] Treaty with the U. S. and that the spirit of the Navigation act is likely to prevail over a more liberal system.

S. Carolina we learn has agreed to the Impost on condition only that the revenue be collected by her own officers, & be credited to her own quota. It is supposed that she will agree to exchange the valuation of land for the proposed rule of numbers. But on this point R. I. was more inflexible than on that of the Impost. I pity from my heart the officers of the Eastern line who are threatened by these prospects with disappointments which the Southern officers have no Idea of. From much conversation which I have lately had with some of the former, and from other information, there appears great reason to believe that if no *continental provision* be made for them they will not only be docked of their half-pay, but will run great hazard of being put off with regard to a great share of their other pay on the pretence of their States that they have already advanced beyond their proportion.

I expect Mr. Jones every moment.

TO EDMUND RANDOLPH. MAD. MSS.

PHILAD[A] Aug 24, 1783.

MY DEAR SIR,—Mr. Jones who arrived the beginning of the week acquainted me with your abortive

mission to Maryland which I had not before heard of. To this absence from Richmond I impute your silence by the late mails. I hope for the pleasure of a line by the mail now on its way, which will not however be acknowledged till the ensuing week as I am about returning to Princeton when it will find me too late for the post of this week. All that I have now to tell you is that Sr G. Carleton has notified to Cong^{s} his having received orders for the evacuation of N. York but he specifies no time fixed either by the orders or by his own plans. He repeats his lamentations touching the Loyalists and insinuates that the proceedings of the people agst them are a proof that little or no gov^{t} exists in the U. States.

With great affection I am y^{r} fr^{d} & Svt

TO EDMUND RANDOLPH. MAD. MSS.

PRINCETON, Aug 30, 1783.

MY DEAR SIR,—We hear nothing from Europe that can be depended on relative to the definitive Treaty, nor any thing from N. York as to the time it will be evacuated. A Pamphlet has lately come over from G. Britain which appears to be well adapted to retard if not prevent a commercial Treaty, & which is said to be much attended to. It urges an adherence to the principle of the Navigation Act by which American Vessels will be excluded from the trade between the separate parts of the Empire, and from all intercourse with the dependent territories. It undertakes to shew from an enumeration of the produce of the U. S. & the manufactures consumed by them, that those

of G. B. recommended by the superior credit which her Merchants can give, will be sufficiently sure of a preference in the American Market. And lastly it maintains that the interests of the States are so opposite in matters of Commerce, & the authority of Cong[s] so feeble that no defensive precautions need be feared on the part of the U.S. and threatens that in case they should refuse to let British Vessels exclusively carry on a Commerce between the U. S. and the W. Indies as far as the interest of the Islands may require, the vessels of one State shall not be permitted to carry the product of another to any British Port. The Whole tenor of the reasoning supposes that France will not permit Vessels of the U. S. to trade with their Islands in which there is *good reason* to believe they are not mistaken. The object of the French Administration is said to be to allow a direct trade between the U. S. & their W. India possessions, but to confine it to French Bottoms.

The Legislature of Penn[a] have unanimously adopted the Recommendations of Cong[s] both as to Revenue & a change of the fœderal rule for apportioning the common burdens. They will also present an invitation to Cong[s] we understand, to resume their Sessions at Philad[a], if that place be judged most fit for the despatch of public business, untill a permanent seat be chosen & prepared; giving at the same time explicit assurances of support in case it should on any occasion be needed. What effect this conciliatory proposition may have on the temper of Cong[s] is precarious. With some the complaisance shewn to the late recom-

mendations of Cong^{s} will be far from softening the dislike. With others Philad^{a} will ever be obnoxious while it contains and respects an *obnoxious Character*. Annapolis has seized the present occasion to forward her views with respect to Cong^{s}, and has courted their presence in the most flattering terms. During this contest among the rival seats, we are kept in the most awkward situation that can be imagined; and it is the more so as we every moment expect the Dutch Ambassador. We are crowded too much either to be comfortable ourselves or to be able to carry on the business with advantage. Mr. Jones & myself on our arrival were extremely put to it to get any quarters at all, and are at length put into one bed in a room not more than 10 feet square.

TO JAMES MADISON. MAD. MSS.

PRINCETON Aug: 30, 1783.

HOND SIR,—I rec^{d} great pleasure from your's recd. by the last post which removed the apprehensions excited by your preceding one regarding the state of my mother's health. I hope this will find her still further recovered. The time of my setting out for Virg^{a} is still somewhat precarious: several matters being before Cong^{s} which I wish to see first decided. An answer to this if not delayed will probably find me here.

The definitive Treaty is not yet come over. Sr G. Carlton has notified to Cong^{s} his receipt of final orders for the evacuation of N. York, but fixes no time

at which they are to be carried into execution. Gen! Washington has been here some days at the invitation of Cong^s & will be consulted on the provision necessary in time of peace for the security of this country. I inclose you one of the latest papers containing the address of the Presid^t to the assembly of Pen^a The latter have unanimously acceded to the late recom̃endations of Cong^s with respect to revenue, and a change of the rule for apportioning the common burdens. It is said they are also about to address Cong^s on the event which occasioned their removal, & to provide expressly for the protection of Cong^s in case they s^d deem Philad^a the fittest place for the transaction of business untill a final residence shall be chosen. What effect this may have is uncertain. We are exceedingly crowded in this place; too much so both for our own comfort & for the despatch of business. Mr Jones & myself are in one room scarcely ten feet square & in one bed. With the best regards for all the family

I am yr. dutiful son

TO JAMES MADISON. MAD. MSS.

PHILAD^A Sepr 8. 1783.

HOND SIR,—Mr Jones & myself being here transacting some private business which brought us from Princeton the end of last week, I here receive your letter of the 22^d ult. The favorable turn of my mother's state of health is a source of great satisfaction to me, and will render any delay in my setting out for Virg^a the less irksome to me. I shall return

to Princeton tomorrow; my final leaving of which will depend on events, but can not now be at any very great distance. On a view of all circumstances I have judged it most prudent not to force Billey back to V^a^ even if [it] could be done; and have accordingly taken measures for his final separation from me. I am persuaded his mind is too thoroughly tainted to be a fit companion for fellow slaves in Virg^a^ The laws here do not admit of his being sold for more than 7 years. I do not expect to get near the worth of him; but cannot think of punishing him by transportation merely for coveting that liberty for which we have paid the price of so much blood, and have proclaimed so often to be the right, & worthy the pursuit, of every human being.

We have no later advices from Europe than when I wrote by Merry Walker.

TO EDMUND RANDOLPH. MAD. MSS.

PHILAD^A^ Sep^t^ 8 1783.

MY DEAR SIR,—Mr Jones & myself having come down to this city the end of the past week for the purpose of negociating some pecuniary matters I am here to date my acknowledgment of your favor of the 30th ulto. We return again tomorrow.

The delay of the definitive Treaty although not fully explained to Congress, excites less disquietude here than I find it does in Virginia. Our latest official advices were from Mr. Laurens, of the [seventeenth] of June. The Conduct of the British administration was far from explicit, according to his state

of it, but probably proceeded more from the discordant materials of which it is composed & doubts as to the commercial footing on which America ought to be placed, than from any insidious views. Why indeed a Commercial Treaty should be made to clog the Treaty of peace is left to conjecture. Perhaps the fact may not be true & the delay of the latter may be owing still to the old cause, to wit, a discussion of the intricate points with the Dutch. The situation of G. B. is such that nothing but some signal change in the aspect of things in this hemisphere can inspire a fresh disposition for war; notwithstanding the menacing tone of Sr G. Carleton.

The Legislature of P^a have taken every possible step to expiate the default of the Executive short of an impeachment of its members, which the rigor of some members of Cong^s included among the terms of reconciliation with the State. They have expressly invited Cong^s back, assured them of honorable protection, and given up the State-House with the appendages for their temporary use. They have also made German Town a competitor for the permanent abode of Congress.

The opposition in the N. England States to the grant of half-pay instead of subsiding has increased to such a degree as to produce almost a general anarchy. In what shape it will issue is altogether uncertain. Those who are interested in the event look forward with very poignant apprehensions. Nothing but some continental provision can obtain for them this part of their reward. * * *

Why did not the Assembly stop the sale of land warrants? They bring no profit to the public Treasury, are a source of constant speculation on the ignorant, and will finally arm numbers of Citizens of other States & even foreigners with claims & clamors against the faith of Virginia. Immense quantities have from time to time been vended in this place at immense profit, and in no small proportion to the subjects of our Ally. The credulity here being exhausted I am told the land Jobbers are going on with their commodity to Boston & other places.

TO EDMUND RANDOLPH. MAD. MSS.

PRINCETON, Sepr 13,.1783.

MY DEAR SIR,—Our Ministers in Europe have made some amends for ye long silence by voluminous despatches brought down to 27th July. They were rec^{d} yesterday by Congress. No definitive treaty had then been signed by any of the parties, though all had been ready except Holland & America. The former is said to have settled her difficulties. The American Ministers have been endeavouring to incorporate some important commercial stipulations, but in vain; and in case of emergency must come forward with the provisional articles to be signed as ye definitive Treaty. The conduct of G. B. in the negociation with America has shewn great unsteadiness if not insidiousness on the subject of commerce; and the inclosed proclamation of the 2^{d} of July is a proof that some experiment is intended on the wisdom firm-

ness & union of the States before they will enter into a Treaty in derogation of her Navigation Act. Congress will probably recomend some defensive plan to the States. If it s^d^ meet with the fate of former recommendations, it will not probably be owing to Rhode Island whose staple interest more than that of any others lies in carrying between the U. S. & the West Indies. If it fails at all it will prove such an inefficacy in the Union as will extinguish all respect for it & reliance on it. My situation here for writing is so incommodious that you must excuse my brevity.

TO EDMUND RANDOLPH. MAD. MSS.

PRINCETON, Sepr 20, 1783.

DEAR SIR,—I have nothing to add to my last on the subject of foreign affairs, further than that the Court of France has fixed on L'Orient as a free port for the U. S. The Virg^a^ Cession underwent a decision of Cong^s^ a day or two after my last. The form which they have given it may be seen in the hands of the Executive. I sincerely hope it may meet the ultimatum of Virg^a^. The circumstances which produced brevity in my last as strongly recommended it at present. Adieu.

TO THOMAS JEFFERSON. MAD. MSS.

PRINCETON, Sepr 20, 1783.

DEAR SIR,—Your favor of the 31 ult: came to hand yesterday. As the reason which chiefly urged my departure for Virg^a^ has ceased I have been led to protract my attendance on Congress by the interest I

felt in some measures on foot, and the particular interest which my Constituents have in them. Two of these were the territorial Cession and the permanent seat of Congress. The former was a few days ago put into a form which I hope will meet the ultimatum of Virginia. The first monday in next month is fixed for a decision of the latter; after which it may still be necessary to choose a temporary residence until the permanent one can be made ready. I am utterly unable to foretell how either of these points will be determined. It is not impossible that an effective vote may be found attainable on neither; in which case the Winter must be spent in this village where the public business can neither be conveniently done, the members of Congress be decently provided for, nor those connected with Congress provided for at all. I shall lose no time in looking out for quarters for you & entering into provisional engagements in your favor. Your other request relative to Miss Patsy shall be equally attended to as soon as I go to Philad[a], which will probably be towards the end of the present week.

It will give me real concern if we should miss one another altogether in the journies before us; and yet I foresee the danger of it. Mr. Jones & myself will probably be on the road by the middle of next month or a few days later. This is the time about which you expect to commence your journey. Unless therefore we travel the same road a disappointment of more [than] an interview will be unavoidable. At present our plan is to proceed thro' Baltimore & Alexandria & Fredericksb[g] and we may possibly be at the

races of the second place. I am at a loss by what regulation I can obey your wishes with regard to the notes I have on hand; having not yet made any copy of them, having no time now for that purpose, and being unwilling for several reasons to leave them all behind me. A disappointment however will be of the less consequence as they have been much briefer & more interrupted since the period at which you run them over, and have been altogether discontinued since the arrival of Cong[s] here.

My plan of spending this winter in Philad[a] in close reading was not entirely abandoned untill Congress left that City and shewed an utter disinclination to return to it. The prospect of agreeable and even instructive society was an original consideration with me; and the subsequent one having yours added to it would have confirmed my intention after the abortive issue of another plan,[1] had not the solicitude of a tender & infirm parent exacted a visit to Virg[a] and an uncertainty of returning been thereby incurred. Even at present if Cong[s] s[d] make Phila[a] their seat this winter & I can decline a visit to Virg[a] or speedily get away from it, my anxiety on the subject will be renewed.

Our last information from Europe is dated the 27th July. France & Spain were then ready for the definitive signing of the Peace. Holland was on the point of being so. The American Plenipo[s] had done nothing on the subject and in case of emergency

[1] The allusion is to his rejection the month before by Miss Floyd, a daughter of William Floyd, of New York.

could only sign the provisional Treaty as final. Their negotiations had been spent chiefly on commercial stipulations from which G. B. after very different professions & appearances, altogether drew back. The ready admission she found into our commerce without paying any price for it has suggested the policy of aiming at the entire benefit of it, and at the same time saving the carriage of the W. India trade the price she at first bid for it. The supposed contrariety of interests among the States and the impotence of the fœderal Gov^{t}, are urged by the ministerial pamphleteers as a safeguard agst retaliation. The other nations of Europe seem to have more honorable views towards our commerce, sundry advances having been made to our Ministers on that subject.

Congress have come to no decision even as yet on any of the great branches of the peace establishment. The military branch is supported and quickened by the presence of the Commander in Chief, but without any prospect of a hasty issue. The department of foreign Affairs both internal & external remains as it has long done. The election of a Sec^{y} has been an order of the day for many months without a vote being taken. The importance of the marine department has been diminished by the sale of almost all the Vessels belonging to the U. S. The department of Finance is an object of almost daily attack and will be reduced to its crisis on the final resignation of Mr. M., which will take place in a few months. The War Office is connected with the Military estab-

lishment & will be regulated I suppose in conformity to what that may be. Among other subjects which divide Congress, their Constitutional authority touching such an establishment in time of peace is one. Another still more puzzling is the precise jurisdiction proper for Congress within the limits of their permanent seat. As these points may possibly remain undecided till Nov^r^, I mention them particularly that your aid may be prepared. The investigation of the Mutiny ended in the condemnation of several Sergeants who were stimulated to the measure without being apprized of the object by the two officers who escaped. They have all rec^d^ a pardon from Congress. The real plan & object of the mutiny lies in profound darkness. I have written this in hopes that it may get to Monticello before you leave it. It might have been made more interesting if I had brought the Cypher from Philad^a^, tho' my present situation required a great effort to accomplish as much as I have. I am obliged to write in a position that scarcely admits the use of any of my limbs, Mr. Jones & myself being lodged in a room not 10 feet square and without a single accommodation for writing.

I am Dear Sir your sincere friend & Ob^t^ Servt

TO EDMUND RANDOLPH. MAD. MSS.

PHILAD^A^ Septr 30, 1783.

MY DEAR SIR,—Your favor introducing Mr. Corbin and that by the last week's post have both been receiv^d^. The former did not get to Princeton before Mr.

C. had left it, nor did I get to this place before he was so near leaving it that I had no opportunity of manifesting my respect for your recommendations otherwise than by verbal civilities to him. Yesterday's post brought me no letter from you. In answer to your comment in the preceding one on the reception of a Minister from the Œconomical Republic to which we are allied, it will suffice to inform you, that in pursuance of a commission from him *six* elegant horses are provided for his coach, as was to have been one of the best houses in the most fashionable part of the City. Wherever Commerce prevails there will be an inequality of wealth, and wherever the latter does a simplicity of manners must decline.

Our foreign intelligence remains as at the date of my last. I forget whether I mentioned to you that our Ministers unanimously express surprise at the doubt started in America as to the epoch which terminated hostilities on our Coast. They affirm that one month from the date of the instrument was meant & suppose that that exposition will not be contested. Pray can your researches inform me 1st, Whether prizes made by & from parties not subject to the power before whose maritime courts they are carried, are *provisionally* or *finally* tried?—2d How far the rules established by the Sovereign of the Captor & those by the Sovereign of the Courts prevail in such trials? 3dly, What difference is made in cases where both the parties concerned in the capture are subject to the same power and where they are subject to different powers?

TO EDMUND RANDOLPH. MAD. MSS.

PHILAD^A Octr 13th, 1783.

MY DEAR SIR,—I returned yesterday in order to be with Mr Jones before his departure and make some little arrangement with him of a private nature. The past week has been spent by Congress in deliberating on 1. their permanent seat; 2. their temporary one. The competition for the former lay between the falls of the Potowmack and those of the Delaware. We hoped at first from the *apparent* views of the Eastern Delegates that they would have given a preference to Potowmack. In the event they joined with Pen^a & the intermediate States in favor of the Delaware the consequence of which is that the vicinity of its Falls is to become the future seat of the fœderal Gov^t unless a conversion of some of the Eastern States can be effected. The next point was the abode of Cong^s untill their permanent seat could receive them. The expediency of removing from Princeton in order to the more convenient transaction of the affairs of the U. S. and accommodation of Cong^s, was first determined on, Mass^ts, Con^t, & R. I. alone being opposed to it. Trenton was next proposed, on which Question the votes were divided by the River Delaware. Philad^a came next in order. Besides its convenient position in relation to the Permanent seat & superior temporary accommodations for the public business and for Cong^s, arguments in its favor were drawn from the tendency of passing by these accommodations to others inferior in themselves & more distant from the permant seat, to denote a resentment unworthy of

a Sovereign authority agst a part of its Constituents which had fully expiated any offence which they might have committed; and at the same time to convert their penitential and affectionate temper into the bitterest hatred. To enforce this idea some of the proceedings of Cong^{s} expressive of resentment agst Philad^{a} were made use of. Great stress was also laid on the tendency of removing to any small or distant place, to prevent or delay business which the honor & interest of the U. S. require s^{d} be despatched as soon as possible. On the other side objections were drawn from those sources which have produced dislikes to Philad^{a}, and wch will be easily conjectured by you. On the question N. Y, P^{a}, Delaware, Virg^{a}, & N. Carolina were ay; Mass^{ts}, Con^{t}, R. I., N. Jersey, no; and Maryland & S. Carolina, divided. If either of the divided States had been in the affirmative it was the purpose of N. Jersey to add a seventh vote in favor of Philad^{a}. The division of S. Carolina was owing to the absence of Mr. Rutledge & Mr. Izard both of whom would have voted for Phil^{a}. The State was represented by two members only. The division of Maryland represented by Mr Carroll & M^{r} McHenry was occasioned by the negative of the latter, whose zeal for Annapolis determined him to sacrifice every consideration to an experiment in its favor, before he would accede to the vote for Philad^{a}. The aversion of the Eastern States was the ground of his coalition with them. The arguments in favor of Annapolis consisted of objections agst Philad^{a}. Those agst it were chiefly the same which had been urged in favor

of Philad[a]. On the question the States were Mass[ts], Con[t], R. I., Delaware, Maryland & N. C., ay, N. Y., N. J. P[a] Virg[a], no. S. C. divided. Virg[a] was represented by Mr. Lee Mr. Mercer & Mr. M. The first was in the affirmative. Mr. Jones & Mr. Bland were in Philad[a]. The vote of the latter w[d] have been in favor of Annapolis of the former in favor of Philad[a]. The opinion of Mr. L & Mr. B in fav[r] of Annapolis resulted from a dislike to Philad[a], & the idea that the views of V[a] would be promoted by it. That of their colleagues from a belief that the reasons drawn in fav[r] of Philad[a], from National considerations req[d] a concession of local views, and even that a recision of the permanent vote for Trenton in favor of George Town, the object of V[a], would be promoted by placing the Eastern States in Philad[a]. They also supposed that the concurrence of the Eastern States in a temporary vote for Annapolis to take effect some weeks hence, was little to be confided in, since the arrival of a colleague to the Delegate from N. Hampshire would with the accession of Pen[a], who w[d] prefer Trenton to Annapolis & be moreover stimulated by resentment, would make up seven States to reverse the removal to Annapolis. Add to the whole that experience has verified the opinion that in any small place Cong[s] are too dependent on courtesy & favor to be exempt either in their purses or their sensibility from degrading impositions. Upon the whole it is most probable that Philad[a] will be [the] abode of Cong[s] during the Winter. I must refer to M[r] Jones for explanations on all these points, he will be in Richmond

early in the Session. For myself I have engaged to return to Princeton to attend some interesting points before Cong[s]. Having not yet settled my arrangements for the Winter I must for the present be silent as to my [torn out] situation. Mr. Van Berkel arrived a few days [torn out]. Cong[s] are in a charming situation to receive him, being in an obscure village undetermined where they will spend the Winter, and without a Minister of F. A. After the rec[t] of this you will stop your correspondence, and probably not hear further from me. I set off tomorrow morning at 3 oClock in the Flying Machine for Princeton, and it is now advancing towards the hour of sleep. In haste adieu My dear friend and be assured that I am Y[rs] Sincerely.

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE Decem[r] 10th. 1783.

DEAR SIR,—My journey from Annapolis was so retarded by rains and their effect on the water courses that I did not complete it till the ninth day after I left you. I took[1] *Col. Mason* in my *way & had an evening's conversation with him. I found him much less opposed to the general impost than I expected.* Indeed *he disclaimed all opposition to the measure itself but had taken up a vague* apprehension that *if adopted at this crisis it might embarrass* the *defence of our trade ag[st] British machinations, he seemed* upon the whole *to acquiesce in the territorial cession,*

[1] Cypher represented by italics.

but *dwelt much on the* expediency of the *guaranty. On the article of a convention* for *revising our form of Government he was sound and ripe and I think would not decline a* participation *in the work. His heterodoxy lay chiefly in being too little impressed with* either the *necessity* or the *proper means of preserving the* confederacy.

The situation of the commerce of this country as far as I can learn is even more deplorable than I had conceived. It cannot pay less to Philad[a] & Baltimore if one may judge from a comparison of prices here & in Europe, than 30 or 40 Per C[t.] on all the exports & imports, a tribute which if paid into the treasury of the State would yield a surplus above all its wants. If the Assembly should take any steps towards its emancipation you will no doubt be apprized of them as well as their other proceedings from Richmond.

I am not yet settled in the course of law reading with which I have tasked myself and find it will be impossible to guard it against frequent interruptions. I deputed one of my brothers to Monticello with the draught on your library, but Capt. Key was down at Richmond. As soon as he returns I propose to send again. My Trunk with Buffon &c. has come safe to Fred[g] so that I shall be well furnished with materials for collateral reading. In conversing on this author's Theory of central heat I recollect that we touched upon as the best means for trying its validity,[1] the comparative distances from the earths

[1] See letter of Feby. 17, [1784], shewing Buffon who had been read to have been misconceived. Note in MSS.

center of the summits of the highest mountains and their bases or the level of the sea. Does not the oblate figure of the earth present a much more extensive and perhaps adequate field for experiments? According to the calculations of Martin grounded on the data of Manpertius &c.

The Equatorial diameter of the Earth is...	7942.2	Eng. Miles
The polar diam:.....	7852.4	E.M.
difference between eq : & pol. diameter....	89.8.	E.M.

The difference then of the semidiameters is 44.9, E. miles, that is $\frac{1}{87.94}$ of the mean semidiameter calling this difference in round numbers 45 miles, and disregarding the small variations produced by the elliptical form of the Earth, the radii will be shortened $\frac{1}{2}$ of a mile by each degree from the equator to the poles. It would seem therefore that the difference of distance from the center at the Equator & at the highest latitude that may [be] visited must be sufficient to produce a discoverable difference in the degrees of any heat emitted equally in every direction from the center: and the experiment might be sufficiently diversified to guard against illusion from any difference which might be supposed in the intermediate density of different parts of the Earth. The distance even between the Equator & the polar circle produces a difference of no less than $33\frac{1}{6}$ miles i.e. $\frac{1}{119}$ of the mean distance from the center; so that if the curiosity of two setts of French Philosophers employed in ascertaining the figure of the earth, had been directed to this question, a very little additional trouble &

expence might perhaps have finally solved it. Nay the extent of the U.S. computing from the 31° of lat: to the 45° only makes a difference of 7 miles in the distance from the center of the Earth; a greater difference I suppose than is afforded by the highest mountains or the deepest mines or both put together.

On my delivering you the draught on M.r Ambler I remember you put into my hands a note which I never looked into supposing it to relate to that circumstance In examining my papers I perceive that I have lost it and mention it to put you on your guard in case the note s.d fall into bad hands & be capable of being abused. Present my respects to M.r Mercer & the other gentlemen of the Delegation & be assured that I am y.rs sincerely

You will be so good as to give the inclosed a safe conveyance to Mrs. House.

TO EDMUND RANDOLPH. MAD. MSS.

ORANGE, March 10th, 1784.

MY DEAR FRIEND,—Your favor of the 27th Jany. was safely delivered to me about a fortnight ago, and was rec.d with the greater pleasure, as it promises a continuance of your friendly attention. I am sorry that my situation enables me to stipulate no other return than sincere & thankful acknowledgments.—On my arrival here which happened early in Dec.r I entered as soon as the necessary attentions to my friends admitted, on the course of reading which I have long

meditated. Co: Litt: in consequence & a few others from the same shelf have been my chief society during the Winter. My progress, which in so short a period could not have been great under the most favorable circumstances, has been much retarded by the want of some important books, and still more by that of some living oracle for occasional consultation. But what will be most noxious to my project, I am to incur the interruptions wch will result from attendance in the Legislature, if the suffrage of my County should destine me for that service, which I am made to expect will be the case. Among the circumstances which reconcile me to this destination, you need not be assured that the opportunity of being in your neighborhood has its full influence.

I have perused with both pleasure and edification your observations on the demand made by the Executive of S. C. of a citizen of this State.[1] If I were to hazard an opinion after yours, it would be that the respect due to the chief magistracy of a confederate State, enforced as it is by the articles of Union, requires an admission of the fact as it has been represented. If the representation be judged incomplete or ambiguous, explanations may certainly be called

[1] George Hancock, a citizen of Virginia, assaulted Jonas Beard, a justice of the peace and member of the legislature of South Carolina. The Governor of South Carolina demanded Hancock's surrender from the Governor of Virginia, under the fourth article of the confederation, charging the assault as a high misdemeanor. Randolph, as Attorney General of Virginia, thought that Virginia had a right to insist upon proof of Hancock's guilt before taking action, but that South Carolina's definition of a misdemeanor must be admitted by Virginia, and that flight ought not to secure one from punishment. Randolph to Jefferson, January 30, 1784, Conway's *Randolph*, 51.

for, and if on a final view of the charge, Virginia should hold it to be not a casus fœderis, she will be at liberty to withhold her citizen, (at least upon that ground,) as S. C. will be to appeal to the Tribunal provided for all controversies among the States. Should the Law of S. C. happen to vary from the British Law, the most difficult point of discussion I apprehend will be, whether the terms "Treason &c." are to be referred to those determinate offences so denominated in the latter code, or to all those to which the policy of the several States may annex the same titles and penalties. Much may be urged I think both in favor of and agᵗ each of these expositions. The two first of those terms coupled with "breach of the peace" are used in the 5 Art: of the Confederation, but in a way that does not clear the ambiguity. The truth perhaps in this as in many other instances, is, that if the compilers of the text had severally declared their meanings, these would have been as diverse as the comments which will be made upon it.

Waving the doctrine of the confederation, my present view of the subject would admit few exceptions to the propriety of surrendering fugitive offenders. My reasons are these. 1. By the express terms of the Union the citizens of every State are naturalized within all the others, and being entitled to the same privileges, may with the more justice be subjected to the same penalties. This circumstance materially distinguishes the citizens of the U. S. from the subjects of other nations not so incorporated. 2. The analogy of the laws throughout the States, and particularly the

uniformity of trial by Juries of the vicinage, seem to obviate the capital objections agst removal to the State where the offence is charged. In the instance of contiguous States a removal of the party accused from one to the other must often be a less grievance, than what happens within the same State when the place of residence & the place where the offence is laid are at distant extremities. The transportation to G. B. seems to have been reprobated on very different grounds: it would have deprived the accused of the privilege of trial by jury *of the vicinage* as well as of the use of his witnesses, and have exposed him to trial in a place where he was not even alledged to have ever made himself obnoxious to it; not to mention the danger of unfairness arising from the circumstances which produced the regulation. 3. Unless citizens of one State transgressing within the pale of another be given up to be punished by the latter, they cannot be punished at all; and it seems to be a common interest of the States that a few hours or at most a few days should not be sufficient to gain a sanctuary for the authors of the numerous offences below "high misdemesnors." In a word, experience will shew if I mistake not that the relative situation of the U. S. calls for a "Droit Public" much more minute than that comprized in the fœderal articles, and which presupposes much greater mutual confidence and amity among the societies which are to obey it, than the law which has grown out of the transactions & intercourse of jealous & hostile nations.

Present my respectful compliments to your amiable

lady & accept the sincerest wishes for your joint happiness of

Your affᵉ friend & obᵗ servᵗ.

P. S. By my brother who is charged with this I send Chastellaux's work, de la Felicité public which you may perhaps find leisure to run through before May—also a notable work of one of the Representatives of the U. S. in Europe.

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE, March 16, 1784.

DEAR SIR,—Your favour of the 20. ult. came duly to hand a few days ago. I cannot apprehend that any difficulties can ensue in Europe from the involuntary & immaterial delay of the ratification of the peace, or if there should that any imputations can be devised which will not be repelled by the collective force of the reasons in the intended protest; some of which singly taken are unanswerable. As you no doubt had recourse to authorities which I have no opportunity of consulting, I probably err in supposing the right of the Sovereign to reject the act of his plenipotentiary to be more circumscribed than you lay it down. I recollect well that an implied condition is annexed by the usage of nations to a Plenipotentiary Comiss-sion, but should not have extended the implication beyond cases where some palpable & material default in the Minister could be alledged by the Sovereign. Waving some such plea, the language both of the Comission and of reason seems to fix on the latter

as clear an engagement to fulfil his *promise* to ratify a treaty, as to fulfil the *promises* of a treaty which he has ratified. In both cases one would pronounce the obligation equally personal to the Sovereign, and a failure on his part without some absolving circumstance equally a breach of faith. The project of affixing the Seal of the U. S. by 7 States to an act *which had been just admitted to require nine*, must have stood self-condemned; and tho' it might have produced a temporary deception abroad, must have been immediately detected at home, and have finally dishonored the fœderal counsels everywhere. The competency of 7 States to a Treaty of Peace has often been a subject of debate in Congress and has sometimes been admitted into their practice, at least so far as to issue fresh instructions. The reasoning employed in defence of the doctrine has been "that the cases which require 9 States, being exceptions to the general authority of 7 States ought to be taken strictly; that in the enumeration of the powers of Congress in the first clause of art: 9 of the Confederation, the power of entering into treaties and alliances is contradistinguished from that of determining on peace & war & even separated by the intervening power of sending & receiving ambassadors; that the excepting clause therefore in which 'Treaties & alliances' ought to be taken in the same confined sense, and in which the power of determing on peace is omitted, cannot be extended by construction to the latter power; that under such a construction 5 States might continue a war which it required nine to com-

mence, though where the object of the war has been obtained, a continuance must in every view be equipollent to a commencement of it; and that the very means provided for preserving a state of peace might thus become the means of preventing its restoration." The answer to these arguments has been that the construction of the fœderal articles which they maintain is a nicety which reason disclaims, and that if it be dangerous on one side to leave it in the breast of 5 States to protract a war, it is equally necessary on the other to restrain 7 States from saddling the Union with any stipulations which they may please to interweave with a Treaty of peace. I was once led by this question to search the files of Cong^{s} for such lights as the history of the Confederation might furnish, and on a review now of my papers I find the evidence from that source to consist of the following circumstances: In Doct^{r} Franklin's "Sketch of Articles of Confederation" laid before Cong^{s} on 21 day of July 1775, no number beyond a majority is required in any cases. In the plan reported to Congress by the Committee appointed 11. June 1776, the general enumeration of the powers of Cong^{s} in art. 18. is expressed in a similar manner with the first clause in the present 9th art., as are the exceptions in a subsequent clause of the 18 art. of the report, with the excepting clause as it now stands: and yet in the margin of the Report and I believe in the same hand writing, there is a "Qu.: If so large a majority is necessary in concluding a Treaty of peace." There are sundry other marginal queries in the report from the same pen. Hence

it would seem that notwithstanding the preceding discrimination between the powers of "determining on peace" and "entering into Treaties," the latter was meant by the Com^e^ to comprise the former. The next form in which the articles appear, is a printed copy of the Report as it had been previously amended, with sundry amendments, erasures, & notes on the printed copy itself in the hand of Mr Thomson. In the printed text of this paper art: 14 the phraseology which defines the general powers of Congress is the same with that in art: 18 of the manuscript report. In the subsequent clause requiring nine States, the text as printed ran thus: "The United States in Cong^s^ assembled shall never engage in a war nor grant letters of marque & reprisal in time of peace, nor enter into any Treaties or alliances except for peace," the words *except for peace* being erased, but sufficiently legible through the erasure. The fair inference from this passage seems to be 1. that without those words 9 States were held to be required for concluding peace. 2. that an attempt had been made to render 7 States competent to such an act, which attempt must have succeeded either on a preceding discussion in Congress or in a Com^e^ of the whole, or a special com^e^. 3. that on fuller deliberation the power of making Treaties of peace was meant to be left on the same footing with that of making all other Treaties. The remaining papers on the files have no reference to this question. Another question which several times during my service in Cong^s^ exercised their deliberations was whether 7 States could revoke

a Commission for a Treaty issued by nine States, at any time before the faith of the Confederacy should be pledged under it. In the instance of a proposition in 1781 to revoke a Commission which had been granted under peculiar circumstances in 1779 to *Adams*[1] to form *a treaty of commerce with G. B.*, the competency of 7 States was resolved on (by 7 States indeed) and a revocation took place accordingly. It was however effected with much difficulty, and some members of the minority even contested the validity of the proceeding. My own opinion then was and still is that the proceeding was equally valid & expedient. The circumstances which had given birth to the comission had given place to others totally different; not a single step had been taken under the commission which could affect the honour or faith of the U. S. and it surely can never be said that either the letter or spirit of the Confederation, requires the same majority to decline as to engage in foreign treaties. The safest method of guarding agst the execution of those great powers after the circumstances which dictated them have changed, is to limit their duration, trusting to renewals as they expire, if the original reasons continue. My experience of the uncertainty of getting an affirmative vote even of 7 States had determined me before I left Congress, always to contend for such limitations.

I thought the sense of the term "appropriation" had been settled by the latter practice of Cong^{s} to be the same as you take it to be. I always understood

[1] Italics for cypher.

that to be the true, the parliamentary and the only rational sense. If no distinction be admitted between the "appropriation of money to general uses" and "expenditures in detail" the Secretary of Cong^{s} could not buy quills or wafers without a vote of nine States entered on record, and the Secretary to the Come of the States could not do it at all. In short unless one vote of appropriation can extend to a *class* of objects, there must be a physical impossibility of providing for them; & the extent & generality of such classes can only be determined by discretion & conveniency. It is observable that in the specification of the powers which require 9 States, the single technical word "appropriate" is retained. In the general recital which precedes, the word "apply" as well as "appropriate" is used.—You were not mistaken in supposing I had in conversation restrained the authority of the fœderal Court to territorial disputes, but I was egregiously so in the opinion I had formed. Whence I got it I am utterly at a loss to account. It could not be from the Confederation itself, for words could not be more explicit. I detected the error a few days ago in consulting the articles on another subject, & had noted it for my next letter to you.—I am not sure that I comprehend your idea of a cession of the territory beyond the Kenhaway and on this side of the Ohio. As all the *soil* of value has been granted out to individuals a cession in that view would be improper, and a cession of the *jurisdiction* to Cong^{s} can be proper only where the Country is vacant of settlers. I presume your meaning therefore

to be no more than a separation of that country from this and an incorporation of it into ye Union ; a work to which all three must be parties. I have no reason to believe there will be any repugnance on the part of Virg^a^—The effort of Pen^a^ for the Western commerce does credit to her public councils. The commercial genius of this State is too much in its infancy I fear to rival the example. Were this less the case, the confusion of its affairs must stifle all enterprize. I shall be better able however to judge of the practicability of your hint when I know more of them.—The declension of George Town does not surprise me tho' it gives me regret. If the competition should lie between Trenton & Philad^a^ & depend on the vote of *New York*[1] it is not difficult to foresee into which scale it will be thrown, nor the probable effect of such decision on our Southern hopes.—I have long regarded the council as a grave of useful talents, as well as objectionable in point of expence, yet I see not how such a reform as you suggest can be brought about. The Constitution, tho' readily overleaped by the Legislature on the spur of an occasion, would probably be made a bar to such an innovation. It directs that 8 members be kept up, and requires the sanction of 4 to almost every act of the Governor. Is it not to be feared too, that these little meliorations of the Government may turn the edge of some of the arguments which ought to be laid to its root? I grow every day more & more solicitous to see this essential work begun. Every days delay settles the

[1] Cypher.

Gov^t deeper into the habits of the people, and strengthens the prop which their acquiescence gives it. My field of observation is too small to warrant any conjecture of the public disposition towards the measure; but all with whom I converse lend a ready ear to it. Much will depend on the politics of Mr. Henry, wch are wholly unknown to me. Should they be adverse, and G. Mason not in the Assembly hazardous as delay is, the experiment must be put off to a more auspicious conjuncture.

The charter granted in 1732 to Lord Baltimore makes, if I mistake not, the *Southern shore* of the Potowmac, the boundary of Maryland on that side. The constitution of Virginia cedes to that State "all the territories contained within its charter with all the rights of property, *jurisdiction and Government and all other rights whatsoever*, which might at any time have been claimed by Virginia, excepting *only the free navigation & use* of the Rivers Potowmac and Pohomoque, &c."[1] Is it not to be apprehended that this language will be construed into an entire relinquishment of the Jurisdiction of these rivers, and will not such a construction be fatal to our port regulations on that side, & otherwise highly inconvenient? I was told on my journey along the Potowmac of several flagrant evasions which had been practiced with impunity & success, by foreign vessels which had loaded at Alexandria. The jurisdiction of half the rivers ought to have been expressly reserved. The terms of the surrender are the more extraordinary, as the patents of

[1] See the letter of July 3d to Jefferson.

the N. neck place the whole river potowmac within the Government of Virginia; so that we were armed with a title both of prior & posterior date, to that of Maryland. What will be the best course to repair the error?—to extend our laws upon the River, making Maryland the plaintiff if she chooses to contest their authority — to state the case to her at once and propose a settlement by negociation — or to propose a mutual appointment of Comissioners for the general purpose of preserving a harmony and efficacy in the regulations on both sides? The last mode squares best with my present ideas. It can give no irritation to Maryl.d; it can weaken no plea of Virg.a; it will give Maryland an opportunity of stirring the question if she chooses, and will not be fruitless if Maryland should admit our jurisdiction. If I see the subject in its true light no time should be lost in fixing the interest of Virginia. The good humour into which the cession of the back lands must have put Maryland, forms an apt crisis for any negociations which may be necessary. You will be able probably to look into her charter & her laws, and to collect the leading sentiments relative to the matter.

The winter has been so severe that I have never renewed my call on the library of Monticello, and the time is now drawing so near when I may pass for a while into a different scene, that I shall await at least the return to my studies. Mr. L. Grymes told me a few days ago that a few of your Books which had been borrowed by Mr. W. Maury, and ordered by him to be sent to his brother's, the clergyman,

on their way to Monticello, were still at the place which Mr. M. removed from. I desired Mr. Grymes to send them to me instead of the Parson, supposing, as the distance is less, the books will probably be sooner out of danger from accidents, and that a conveyance from hence will not be less convenient. I calculated also on the use of such of them as may fall within my plan. I lately got home the Trunk which contained my Buffon, but have barely entered upon him. My time begins already to be much less my own than during the winter blockade. I must leave to your discretion the occasional purchase of rare and valuable books, disregarding the risk of duplicates, you know tolerably well the objects of my curiosity. I will only particularize my wish of whatever may throw light on the general constitution & droit public of the several confederacies which have existed. I observe in Boinaud's catalogue several pieces on the Duch, the German, & the Helvetic. The operations of our own must render all such lights of consequence. Books on the Law of N. & N. fall within a similar remark. The tracts of Bynkershoek, which you mention I must trouble you to get for me & in french if to be had rather than in latin. Should the body of his works come nearly as cheap as these select publications, perhaps it may [be] worth considering whether the whole would not be preferable. Is not Wolfius also worth having? I recollect to have seen at Pritchard's a copy of Hawkin's abridgt of Co: Litt: I would willingly take it if it be still there & you have an opportunity. A copy of Deane's letters

which were printed in New York & which I failed to get before I left Phil[a] I should also be glad of. I use this freedom in confidence that you will be equally free in consulting your own conveniency whenever I encroach upon it. I hope you will do so particularly in the request I have to add. One of my parents would be considerably gratified with a pair of good Spectacles which are not to be got here. The particular readiness of Dudley to serve you inclines me to think that an order from you would be well executed. Will you therefore be so good as to get from him one of his best pebble & double jointed pair, for the age of fifty-five or thereabouts, with a good case; and forward them by the first safe conveyance to me in Orange or at Richmond as the case may be. If I had thought of this matter before M[r] Maury set out, I might have lessened your trouble. It is not material whether I be repayed at the bank of Philad[a] or the Treas[y] of Virginia, but I beg it may be at neither till you are made secure by public remittances. It will be necessary at any rate for £20 or 30 to be left in your hands or in the bank for little expenditures which your kindness is likely to bring upon you.

The Executive of S. Carolina, as I am informed by the Attorney have demanded of Virginia the surrender of a citizen of Virg[a] charged on the affidavit of Jonas Beard Esq[r] whom the Executive of S. C. represent to be a "Justice of the peace, a member of the Legislature, and a valuable, good man," as follows: that "three days before the 25th day of Oct[r] 1783 he

(Mr. Beard) was violently assaulted by G. H. during the sitting of the Court of General Sessions, without any provocation thereto given, who beat him (Mr. B.) with his fist & switch over the face head and mouth, from which beating he was obliged to keep his room until the said 25th day of Octr 1783, and call in the assistance of a physician." Such is the case as collected by Mr. Randolph from the letter of the Executive of S. C. The questions which arise upon it are 1. whether it be a charge of high misdemesnor within the meaning of the 4 art: of Confederation. 2. whether in expounding the terms high misdemesnor, the law of S. Carolina, or the British law as in force in the U. S. before the Revolution ought to be the standard. 3. if it be not a casus fœderis what the law of nations exacts of Virginia? 4. if the law of nations contains no adequate provision for such occurrences, whether the intimacy of the Union among the States, the relative position of some, and the common interest of all of them in guarding against impunity for offences which can be punished only by the jurisdiction within which they are committed, do not call for some supplemental regulations on this subject? Mr R. thinks Virginia not bound to surrender the fugitive untill she be convinced of the facts, by more substantial information, & of its amounting to a high misdemesnor, by inspection of the law of S. C. which & not the British law ought to be the criterion. His reasons are too long to be rehearsed.

I know not my dear sir what to reply to the affec-

tionate invitation which closes your letter.[1] I subscribe to the justness of your general reflections I feel the attractions of the particular situation you point out to me. I cannot altogether renounce the prospect: still less can I as yet embrace it. It is very far from being improbable that a few years more may prepare me for giving such a destiny to my future life; in which case the same or some equally convenient spot may be commanded by a little augmentation of price. But wherever my final lot may fix me be assured that I shall ever remain, with the sincerest affection & esteem,

Yr friend and servant.

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE April 25th 1784.

DEAR SIR,—Your favor of the 16th of March came to hand a few days[2] *before Mazzei called on me.* His *plan was* to have *proceeded hence* directly *to Annapolis.* My *conversation led him to premise a visit to Mr. Henry,* from whence *he proposed to repair to Rich-*

[1] "Monroe is buying land almost adjoining me. Short will do the same. What would I not give [if] you could fall into the circle. . . . There is a little farm of 140 as adjoining me, & within two miles, all of good land, tho' old, with a small indifferent house on it, the whole not worth more than £250. Such a one might be a farm of experiment & support a little table and household. It is on the road to Orange & so much nearer than I am. It is convenient enough for supplementary supplies from thence. Once more think of it, and adieu."—Jefferson to Madison, Feb. 20, 1784. *Writings of Jefferson*, iii., 406. Madison's personal plans were given a definite shape the following summer, Aug. 19, 1784, when his father presented him with a farm of 560 acres, a part of the Montpelier tract.—*Orange County MSS. Records.*

[2] Italics for cypher.

mond, and close his affairs with the Executive. Contrary to my *expectation he returned hither on thursday last,* proposing to continue *his circuit through Gloucester, York, and Williamsburg,* recommended *by Mr. Henry, for obtaining from* the *former members of the Council* certain *facts relating to his appointment,* of which *the vouchers have been lost.* This *delay,* with the expectation of *your adjournment,* will probably *prevent his visit to Congress.* Your letter gave me the first information both of *his views towards a Consulate* and of *his enmity towards Franklin.* The first was not betrayed to *me by any conversation* either before or after *I made known to him* the determination *of Congress to confine such appointments to natives of America.* As to the second *he was unreserved* alledging at the same time that the *exquisite cunning of the old fox* has so *enveloped his iniquity,* that its reality cannot be *proved by those who are thoroughly satisfied of it.* It is evident, from several circumstances stated *by himself that his enmity has been embittered* if not *wholly occasioned by incidents of a personal nature. Mr. Adams is the only public man* whom *he thinks favourably of,* or seems to *have associated with, a circumstance which* their mutual *characters may perhaps account for.* Notwithstanding these sentiments *towards Franklin & Adams his hatred of England* remains *unabated,* & does not *exceed his partiality to France,* which with many other considerations which need not be pointed out, persuade me that however dreadful an actual *visit from him might* be to *you in a personal*

view, it would not produce the *public mischiefs you apprehend from it.* By *his interview with Mr. Henry, I learn* that the present *politics of* the *latter* comprehend very friendly *views towards the confederacy*, *a* wish tempered with much caution for *an amendment of our constitution*, *a* patronage *of* the *payment of British debts*, and *of a scheme of general assessment.*

The want of both a Thermometer & Baro^{r} had determined me to defer a meteorological diary till I could procure these instruments. Since the rec^{t} of your letter I have attended to the other columns.

I hope the letter which had not reached you at the date of your last, did not altogether miscarry. On the 16 of March I wrote you fully on sundry points. Among others I suggested to your attention the case of the Potowmac, having in my eye the river below the head of navigation. It will be well I think to *sound* the *ideas of Maryland also*, as to the upper parts of the N. branch of it. The *policy of Baltimore* will probably thwart as far as possible, the *opening of it;* & without a very favorable construction of the *right of Virginia*, and even the privilege of using the *Maryland Bank*, it would seem that the *necessary works could not be* accomplished.

Will it not be good policy to suspend further Treaties of Commerce, till measures shall have taken place in America which may correct the idea in Europe of impotency in the fœderal Gov^{t} in matters of Commerce? Has Virginia been seconded by any other State in her proposition for arming Congress with

power to frustrate the unfriendly regulations of G. B. with regard to her W. India islands? It is reported here that the late change of her ministers has revived the former liberality which seemed to prevail on that subject. Is the Impost gaining or losing ground among the States? Do any considerable payments come into the Contin! Treasury? Does the settlement of the public acc^ts^ make any comfortable progress? Has any resolution been taken by Congress touching the old Cont! currency? Has Maryland foreborne to take any steps in favour of George Town? Can you tell me whether any question in the Court of Appeals, has yet determined whether the war ceased on our coast on the 3d of March or the 3d of April? The books which I was told were still at the place left by Mr W. Maury, had been sent away at [the] time Mr. L. Grymes informed of them.

Mr Mazzei tells me that a subterraneous city has been discovered in Siberia, which appears to have been once populous & magnificent. Among other curiosities it contains an equestrian Statue around the neck of which was a golden chain 200 feet in length, so exquisitely wrought that Buffon inferred from a specimen of 6 feet sent him by the Empress of Russia, that no artist in Paris could equal the workmanship. Mr. Mazzei saw the specimen in the hands of Buffon & heard him give this opinion of it. He heard read at the same time a letter from the Empress to Buffon in which she desired the present to be considered as a tribute to the man to whom Nat: Hist: was so much indebted. Monsr Faujas de St Fond thought the city

was between 72 & 74° N. L. the son of Buffon between 62 & 64° Mr M. being on the point of departure had no opportunity of ascertaining the fact. If you should have had no better account of the discovery this will not be unacceptable to you & will lead you to obtain one.

I propose to set off for Richmond towards the end of this week. The election in this County was on Thursday last. My colleague is Mr Charles Porter

I am, &c.

TO JAMES MADISON. MAD. MSS.

RICHMOND May 13, 1784.

HON^R SIR,—The Spectacles herewith inclosed came to my hands yesterday with information that the p^r first sent were forwarded by mistake. It will however give my mother a double chance of suiting herself. I wish the p^r which may not be preferred to be sent down to me by the earliest opportunity unless they should suit yourself & you choose to keep them, as I am desired by the maker to return them in case they sh^d not be wanted. We did not make a House till Wednesday & of course are but just beginning the business of the Session. Mr Jefferson has been app^d an associate with Dr F. & Mr Adams in forming comercial Treaties and will proceed immediately to Europe. He takes the place of Mr Jay who is returning to America & who is to be the Secretary of F. affairs if he will accept the office. I do not find that S. Jones is as yet

here, & I suspend the sale of the Tob^o with a hope of its further rise. 38/. I believe may now be got, but 40/. is generally expected. I am your

dutiful son

TO THOMAS JEFFERSON. MAD. MSS.

RICHMOND, May 15, 1784.

DEAR SIR,—Your favor of the 7th inst. with another p^r^ of spectacles inclosed came safe to hand on thursday last. I shall have the person for whose use they were intended take choice of the most suitable & will return the other p^r^ to Mr Dudley by the first conveyance, unless I meet with a purchaser which I do not expect. The arrangement which is to carry you to Europe has been made known to me by Mr. Short who tells me he means to accompany or follow you. With the many reasons which make this event agreeable, I cannot but mix some regret that your aid towards a revisal of our State Constitution will be removed. I hope however for your licence to make use of the ideas you were so good as to confide to me, so far as they may be necessary to forward the object. Whether any experiment will be made this session is uncertain. Several members with whom I have casually conversed give me more encouragem^t^ than I had indulged. As Col : Mason remains in private life, the expediency of starting the idea will depend much on the part to be expected from R. H. L. & P. H. The former is not yet come to this place,

nor can I determine any thing as to his politics on this point. The latter arrived yesterday, & from a short conversation I find him strenuous for invigorating the federal Gov^t^ though without any precise plan, but have got no explanations from him as to our internal Gov^t^. The general train of his thoughts seemed to suggest favorable expectations. We did not make a house till Wednesday last, & have done nothing yet but arrange ye committees & receive petitions. The former Speaker was re-elected without opposition. If you will either before or after your leaving America point out the channel of communication with you in Europe, I will take the pleasure of supplying you from time [to time] with our internal transactions, as far as they may deserve your attention, & expect that you will command every other service during y^r^ absence which it may be in my power to render. Wishing you every success & happiness, I am, D^r^ sir,

Your affec^te^ friend

TO JAMES MADISON. MAD. MSS.

RICHMOND June 5th 1784.

HON^D^ SIR,—I have disposed of the tobacco entrusted to me for 40 / per c^t^ but receive in hand no more than will be delivered by Mr Craig. The residue will be paid before I leave this place. I inclose a draught on S. J. from Col. Harvey, for £200 for which I have credited Mr Anderson on his bond. Mr Anderson could not pay the balance now, but expects to do it shortly. The draught & the remittance, will I hope

with such addition as you will be able to make, redeem your bond out of the hands of Mr Jones. I have applied to Genl Wood for Majr Hite's warrant. He promises to get it if possible, before Mr Craig sets out. If he does it will be forwarded. I have laid Majr Lee's case before the House, and it has been referred to the committee of propositions. The mass of business before this Committee & my avocations from it to other Committees have delayed it hitherto. Having but a moment to write this I must refer to Mr Craig for the news of the session. The House of Delegates have agreed to postpone the June tax till Janry. It is not improbable that the Senate may require ½ to be collected at an earlier period. Mr Winslow will probably be glad to be apprized of these circumstances. Remember me affectly to the family & accept of the dutiful respects of your son

TO JAMES MADISON. MAD. MSS.

RICHMOND June 24, 84

HOND SIR,—Your letter by Capt: Cowherd with that of my brother's have been just put into my hand. I shall leave to him the sale of the Tobo belonging to Capt. Conway & Ambrose; not being at leisure myself to do it before he proposes to set out. I think it will be well to accept of Mr Lawson's offer of the Madeira. I shall do the best I can towards satisfying the Treasury on acct of Mr Winslow. Majr Lee's warrant has been ordered by the assembly, but Mr Harvey being a little puzzled by the peculiarity

of the case, could not make it out immediately on my first application, & I have not time now to repeat it. I hope the delay will not be inconvenient to Maj^r^ Lee. Much time has been lately spent by the assembly in abortive efforts for amendment of the constitution,[1] and fulfilling the Treaty of peace in the article

[1] Notes of Speech on Proposed Amendment to the Constitution of Virginia. June, 1784:

"Virg^a^ Legislature

"For Amending Constitution of V^a^ in 1784.

"Nature of a Constitution exam^d^ see Mass^ts^ p. 7. 8. 15. 16. N. Y. p. 63.—Pen^a^ p. 85. 86. Del. p. 106 N. C. p. 146–150. S. C. p. 188. Geo p. 175. 186.

"Convention of 1776. without due power from people.

"1. passed the ordinance for Const^n^ on recommendation of Cong^s^ of May 15. 1776. prior to decln of independence: as was done in N. H. p. 1 & N. J. p. 78–84.

"2. Passed it from impulse of necessity.—See last clause of the preamble

3. before independence declared by Cong^s^

"4. power from people no where pretended.

"5. other ordinances of same Session deemed alterable as relative to Senators—oaths—Salt.

"6. provisions for care of West Augusta in its nature temporary.

"7. Convention make themselves branch of the Legislature.

"Constitution, if so to be called defective

"1. in a Union of powers which is tyranny Montesq.

"2. Executive dependent on Legislature. 1. for salary. 2. for character in the treñial expulsion.—3. expensive—4. may be for life contrary to Art: 5 of Declaration of Rights.—

"3. Judiciary dependent for am^t^ of salary

"4. Privileges & wages of members of Legislature unlimited & undefined.

"5. Senate badly constituted & improperly barred of the originating of laws.

"6. equality of representation not provided for see N. Y. p. 65. S. C. p. 165

"7. Impeachm^ts^ of great moment & on bad footing.

"8. County Courts seem to be fixed p. 143. 144. also General Court.

"9. Habeas Corpus omitted.

"10. no mode of expounding constitution & and of course no check to Genl Assembly

"11. Right of suffrage not well fixed—quere *if popish* recusants &c. are not disfranchised? Const^n^ rests on acquiescence, a bad basis

"Revision during war improper—on peace decency requires surrender of power to people.

of British debts.[1] The residue of the business will not be completed till next week. If my brother W. is at leisure as before, I beg him to bring down the chair for me to be here by Wednesday next.

I am your dutiful son.

" No danger in referring to the people who already exercise an equivalent power.

" If no change be made in the Constitution, it is advisable to have it ratified and secured agst the doubts and imputations under which it now labours."—*Mad. MSS.*

[2] " J. M.'s proposition to the Gen. Assembly [June—1784]. See Journal Whereas by the 4th article of the Definitive Treaty of Peace ratified and proclaimed by the United States in Congress assembled on the 14th day of Jany last ' it is agreed that Creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted ' : and whereas it is the duty and determination of this Commonwealth, with a becoming reverence for the faith of Treaties, truly and honestly, to give to the said article, all the effect, inasmuch as the debts due from the good people of this commonwealth to the subjects of G. Britain were contracted under the prospect of gradual payments, and are justly computed to exceed the possibility of full payment at once, more especially, under the diminution of their property resulting from the devastations of the late war: and it is therefore conceived that the interest of the British creditors themselves will be favored by fixing certain reasonable periods, at which divided payments shall be made :

" Resolved, that it is the opinion of this Committee, that the laws now in force relative to British debts, ought to be so varied & amended as to make the same recoverable in the proportions & at the periods following : that is to say, part thereof with interest of 5 per C^{t} from the date of the definitive Treaty of peace, on the day of and the remaining on the day of And whereas it is further stipulated by art : 7th of the said Treaty, among other things, that ' his Britannic Majesty shall with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons and fleets from the said United States ; and from every post place and harbour within the same, leaving in all fortifications the American artillery that may be therein, and shall also order and cause all archives, records, deeds & papers, belonging to any of the said States, or their citizens, which in the course of the war, may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper States and persons to whom they belong,' which stipulation was in the same words contained in the Provisional articles signed at Paris on the 30th

TO THOMAS JEFFERSON. MAD. MSS.

RICHMOND, July 3d, 1784.

DEAR SIR,—The Assembly adjourned the day before yesterday. I have been obliged to remain here since on private business for my Countrymen with the Auditor's and other departments. I had allotted towards the close of the Session to undertake a narration for you of the proceedings, but the hurry on which I did not sufficiently calculate, rendered it impossible, and I now find myself so abridged in time that I cannot fulfil my intentions. It will however be the less material, as Mr. Short by whom this goes, will be possessed of almost every thing I could say. I inclose

---

day of November 1782 by the commissioners empowered on each part : and whereas posterior to the date of the said provisional articles, Sundry negroes the property of citizens of this commonwealth were carried away from the city of New York whilst in possession of the British forces, and no restitution or satisfaction on that head, has been made, either before or since the Definitive Treaty of peace ; And whereas the good people of this commonwealth have a clear right to expect that whilst, on one side, they are called upon by the U. S. in Congress assembled to them by fœderal Constitution the powers of war & peace are exclusively delegated, to carry into effect the stipulations in favour of British subjects, an equal observance of the stipulations in their own favor, should, on the other side, be duly secured to them under the authority of the Confederacy.

" Resolved, that it is the opinion of this Committee ; that the Delegates representing this State in Congress ought to be instructed to urge in Congress peremptory measures for obtaining from G. Britain satisfaction for the infringement of the article aforesaid ; and in case of refusal or unreasonable delay of such satisfaction, to urge that the sanction of Congress be given to the just policy of retaining so much of the debts due from citizens of this commonwealth, to British subjects, as will fully repair the losses sustained from such infringement : and that to enable the said Delegates, to proceed herein with the greater precision & effect, the Executive ought to be requested to take immediate measures for obtaining & transmitting to them, all just claims of the citizens of this Commonwealth under the 7th art : as aforesaid."—*Mad. MSS.*

you a list of the acts passed excepting a few which had not received the last Solemnity when the list went to press. Among the latter is an Act under which 1 per Ct. of the land tax will be collected this fall and will be for Congress. This with the 1½ per Ct. added to the impost on trade, will be all that Congress will obtain on their last requisition for this year. It will be much short of what they need, & of what might be expected from the declarations with which we introduced the business of the Session. These declarations will be seen in the Journal, copy of which I take for granted will be carried by Mr. Short. Another act not on the list lays duties on law proceedings, on alienations of land, on probats of Wills, administration & some other transactions which pass through official hands. This tax may be considered as the basis of a stamp-tax; it will probably yield £15 or 20,000 at present, which is set apart for the foreign Creditors of this State.

We made a warm struggle for the establishm[t] of Norfolk & Alexandria as our only ports; but were obliged to add York, Tappahannock & Bermuda hundred, in order to gain any thing & to restrain to these ports foreigners only. The footing on which British debts are put will appear from the Journal noting only that a law is now in force which forbids suits for them. The minority in the Senate have protested on the subject. Having not seen the protest I must refer to Mr. Short who will no doubt charge himself with it.

A trial was made for a Convention, but in a form not the most lucky. The adverse temper of the

House & particularly of Mr. Henry had determined me to be silent on the subject. But a Petition from Augusta having among other things touched on a Reform of the Govt and R. H. L. arriving with favorable sentiments, we thought it might not be amiss to stir the matter. Mr. Stuart from Augusta accordingly proposed to the Coñittee of propositions the Resolutions reported to the House as per Journal. Unluckily R. H. L. was obliged by sickness to leave us the day before the question came on in Coñittee of the whole, and Mr. Henry shewed a more violent opposition than we expected. The consequence was that after two days Debate the Report was negatived, and the majority not content with stopping the measure for the present availed themselves of their strength to put a supposed bar on the Journal against a future possibility of carrying it. The members for a Convention with full powers, was not considerable for number, but included most of the young men of education & talents. A great many would have concurred in a Convention for specified amendments, but they were not disposed to be active even for such a qualified plan.

Several Petitions came forward in behalf of a genl Assessmt which was reported by the Come of Religion to be reasonable.[1] The friends of the measure did

[1]At this session a concerted effort was made by the various churches for State recognition. There was a committee of the legislature charged "with all matters relating to religion and morality." Petitions were presented from the Baptists and Presbyterians asking for a removal of all remaining distinctions in favor of the Episcopal Church, in order that "religious freedom be established upon the broad basis of perfect political equality." The bill for the Episcopal Church was debated two days.—Rives, i., 560, *et seq.* John B. Smith, president

not chuse to try their strength in the House. The Episcopal Clergy introduced a notable project for re-establishing their independence of the laity. The foundation of it was that the whole body should be legally incorporated, invested with the present property of the Church, made capable of acquiring indefinitely—empowered to make canons & bye-laws not contrary to the laws of the land, and incumbents when once chosen by vestries, to be immovable otherwise than by sentence of the Convocation. Extraordinary as such a project was, it was preserved from a dishonorable death by the talents of Mr. Henry. It lies over for another Session.

The public lands at Richmond not wanted for public use are ordered to be sold & the money, aided by subscriptions, to be applied to the erection of buildings on the Hill as formerly planned. This fixes the Gov^{t}, which was near being made as vagrant as that of the U. S., by a coalition between the friends of Williamsb^{g} & Stanton. The point was carried by a small majority only.

The lands about Williamsb^{g} are given to the University, and are worth, Mr. Tazewell thinks £10,000 to it. For the encouragement of Mr. Maury's School, licence is granted for a lottery to raise not more than £2000.

of Hampden-Sydney College, wrote to Madison, June 21, 1784, that the bill was insulting to non-Episcopalians, and any measure to *enable* the Episcopal clergy to regulate all spiritual concerns of that church was an express attempt "to draw the State into an elicit connection and commerce with them," and to put the legislature in the position of being at the head of the church. He was sorry that Christian ministers should virtually declare their church to be a mere political machine.—Smith to Madison, *Mad. MSS.*

The revisal is ordered to be printed. A frivolous œconomy restrained the nº of copies to 500. I shall secure the nº you want & forward them by the first opportunity. The three Revisors' labour was recollected on this occasion, and £500 voted for each. I have taken out your warrant in five parts, that it may be the more easily converted to use. It is to be paid out of the first unappropriated money in the Treasury, which renders its value very precarious unless the Treasurer sᵈ be willing to endorse it "receivable-in-taxes," which he is not obliged to do. I shall await your orders as to the disposition of it.

An effort was made for Paine & the prospect once flattering. But a sudden opposition was brewed up which put a negative on every form which could be given to the proposed remuneration. Mr. Short will give you particulars.

Col: Mason the Attorney Mr. Henderson & myself are to negociate with Maryland if she will appᵗ Comissʳˢ to establish regulations for the Potowmac.[1]

[1] The boundary between Virginia and Maryland was the Potomac, and the charter of Lord Baltimore had defined the Southern shore as the line. This Virginia confirmed in the Constitution of 1776, reserving, however, the free navigation and use of the river. Madison feared that this general confirmation would be construed by Maryland into a total surrender of all jurisdiction over the river. Having accertained through Jefferson that Maryland would appoint commissioners to form regulations if Virginia did so, Madison introduced a bill to that effect, which was passed June 30th. See Rives, i., 535, *et seq*. Through a blunder in the notifications Madison and Randolph did not attend the meeting with the Maryland Commissioners, which took place at Mount Vernon, but the Maryland Commissioners having journeyed some distance, Mason and Henderson decided to proceed with the conference.—Mason to Madison, August 9, 1785.—*Mad. MSS.* The Maryland members were T. Stone, Daniel of St. Thomas Jenifer and Samuel Chase. Together with Mason and Henderson they signed the report which was dated Mount Vernon, March 28, 1785, and

Since the receipt of yours of May 8, I have made diligent enquiry concerning the several schools most likely to answer for the education of your Nephews.[1] My information has determined me finally to prefer that of Mr. W. Maury as least exceptionable. I have accordingly recommended it to Mrs Carr, & on receiving her answer shall write to Mr Maury pointing out your wishes as to the course of study proper for Master Carr. I have not yet made up any opinion as to the disposition of your younger nephew but shall continue my enquiries till I can do so. I find a greater deficiency of proper schools than I could have supposed, low as my expectations were on the subject. All that I can assure [you] of is that I shall pursue your wishes with equal pleasure & faithfulness.

transmitted to the General Assembly as "Result of the Deliberations of the Commissioners of Virginia & Maryland, appointed to settle the navigation & Jurisdiction of that Part of the Chesapeake Bay within the Limits of Virginia, & of the Rivers Potomack and Pokomoke." The Commissioners also united in a joint letter to the President of the Executive Council of Pennsylvania, recommending the coöperation of that State.—*Mad. MSS.* There is no reason for supposing that Madison's bill had any deeper purpose than the simple one that appeared on the surface, but when it appeared that regulations between Virginia and Maryland would be useless unless Pennsylvania were included, it became equally evident that New York, New Jersey, and Delaware could render ineffective any agreement Pennsylvania might make. A general convention of all the States to bring about what was at first projected for two States only was the logical suggestion. It resulted in the call for the Annapolis meeting, which in turn led to the Philadelphia convention. The proceedings of the Virginia and Maryland Commissioners are traced in Kate Mason Rowland's *George Mason*, ii., 12, *et seq.* For Madison's resolutions extending the Commissioners' powers, see *post.*

[1] "Mrs. Carr was informed by Mr Jefferson, previous to his departure to Europe, that he had requested the favor of you, to direct the Studies of her two Sons Peter & Dabney in his absence. Should it be convenient for you to comply with Mr Jeffersons request, Mrs Carr will be much obliged to you to inform her, when, and in what manner you would wish them disposed of."—W. O. Collis to Madison, August 9, 1784.—*Mad. MSS.*

Your hint for appropriating the slave tax to Congress fell in precisely with the opinion I had formed and suggested to those who are most attentive to our finances. The existing appropriation of half of it however to the Military debt was deemed a bar to such a measure. I wished for it because the slave holders are Tob° makers, and will generally have hard money wch alone will serve for Congress. Nothing can exceed the confusion which reigns throughout our Revenue department. We attempted but in vain to ascertain the amount of our debts, and of our resources, as a basis for something like a system. Perhaps by the next Session the information may be prepared. This confusion indeed runs through all our public affairs, and must continue as long as the present mode of legislating continues. If we cannot amend the constitution, we must at least call in the aid of accurate penmen for extending Resolutions into bills, which at present are drawn in [a] manner that must soon bring our laws and our Legislature into contempt among all orders of Citizens.

I have communicated your request from Philad^a^ May 25, to Mr. Lane. He writes by Mr. Short & tells me he is possessed of the observations which he promised you. I found no opportunity of broaching a scheme for opening the navigation of the Potowmac under the auspices of Genl Washington, or of providing for such occurrences as the case of Marbois. With the aid of ye Attorney perhaps something may be done on the latter point next Session.

Adieu My dear friend.

TO GENERAL WASHINGTON. WASH. MSS.

ORANGE Augst 12, 1784

DEAR SIR,—I had the honor of receiving your favor of the 12th of June during my attendance on the Legislature, and of answering it a few days, before I left Richmond. Since my return home I have been informed that the gentleman into whose hands the answer was put has mislaid or lost it, and that I cannot rely on its ever finding its way to you. I have therefore to repeat, Sir, that the sanction which your judgment gave to the propriety of rewarding the literary services of Mr Payne,[1] led to an attempt in the House of Delegates for that purpose. The proposition first made was, that he should be invested with a moity of a tract of public land known by the name of the Secretary's lying on the Eastern Shore. The kind reception given to this proposition induced some gentlemen to urge that the whole tract containing about 500 acres might be included in the donation, as more becoming the dignity of the State, and not exceeding the merits of the object. The proposition thus enlarged passed through two readings without apprehension on the part of its friends.—On the third, a sudden attack grounded on considerations of economy and suggestions unfavourable to Mr Payne threw the Bill out of the house. The next idea proposed

[1] Madison wrote to Washington on this subject July 2d less fully than in this letter. For Washington's suggestion that something should be done for "poor Paine," see his letter of June 12, 1784, to Madison, *Writings of Washington*, x., 393, and for Jefferson's opinion of the action of the Assembly, Jefferson to Madison, December 8, 1784, *Writings of Jefferson*, iv., 17.

was that the land in question should be sold and £2000 of the proceeds allotted to Mr Payne to be laid out in the purchase of a farm if he should think fit. This was lost by a single vote. Whether a succeeding Session may resume the matter, and view it in a different light, is not for me to say. Should exertions of genius which have been everywhere admired, and in America unanimously acknowledged, not save the author from indigence & distress, the loss of national character will hardly be balanced by the savings at the Treasury.

With the highest respect &c.

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE Aug 20, 1784.

DEAR SIR,—Your favor of the 1st July written on the eve of your embarcation from Boston was safely delivered by your servant Bob about the 20th of the same month. Along with it I recd the pamphlet on the W. India trade, and a copy of Deane's letters. My last was written from Richmond on the adjournment of the Genl Assembly & put into the hands of Mr. Short. It contained a cursory view of legislative proceedings, referring to the bearer for a more circumstancial one. Since the adjournment I have been so little abroad that I am unable to say with certainty how far those proceedings harmonize with the vox populi. The opinion of some who have better means of information is that a large majority of the people

either from a sense of private justice or of national faith, dislike the footing on which British debts are placed. The proceedings relative to an amendment of the State Constitution seem to interest the public much less than a friend to the scheme would wish. The act which produces most agitation and discussion is that which restrains foreign trade to enumerated ports. Those who meditate a renewal of the old plan of British Monopoly & diffusive credit, or whose mercantile arrangements might be disturbed by the innovation, with those whose local situations give them, or are thought to give them an advantage in large vessels coming up the rivers to their usual stations, are busy in decoying the people into a belief that trade ought in all cases to be left to regulate itself, that to confine it to particular ports is to renounce the boon with which Nature has favored our country, and if one sett of men are to be importers & exporters, another set to be carryers between the mouths & heads of the rivers & a third retailers, trade, as it must pass through so many hands all taking a profit, must in the end come dearer to the people than if the simple plan should be continued which unites these several branches in the same heads. These & other objections, tho' unsound, are not altogether unplausible, and being propagated with more zeal and pains by those who have a particular interest to serve than proper answers are by those who regard the general interest only, make it very probable that the measure may be rescinded before it is to take effect. Should it escape such a fate, it will be owing to a few striking

and undeniable facts, namely, that goods are much dearer in Virginia, than in the States where trade is drawn to a general mart, that even goods brought from Philad^{a} and Baltimore to Winchester & other W. & S. W. parts of Virginia are retailed cheaper than those imported directly from Europe are sold on tide water; that generous as the present price of our Tob^{o} appears, the same article has currently sold 15 or 20 per C^{t} at least higher in Philad^{a} where being as far from the ultimate market it cannot be intrinsically worth more; that scarce a single vessel from any part of Europe, other than the British Dominions, comes into our ports, whilst vessels from so many other parts of Europe, resort to other ports of America, almost all of them too in pursuit of the Staple of Virginia. The exemption of our own citizens from the restriction is another circumstance that helps to parry attacks on the policy of it. The warmest friends to the law were averse to this discrimination which not only departs from its principle, but gives it an illiberal aspect to foreigners, but it was a necessary concession to prevailing sentiments. The like discrimination between our own citizens & those of other States contrary to the fœderal articles is an erratum which was omitted to be rectified, but will no doubt be so. Notwithstanding the languor of our direct trade with Europe, this Country has indirectly tasted some of the fruits of Independence. The price of our last crop of Tob^{o} has been on James River from 35/ to 42/6 per C^{t} & has brought more specie into the Country than it ever before contained at one time.

The price of hemp however has been reduced as much by the peace as that of Tob°. has been raised, being sold I am told as low as 20/ per C.t beyond the mountains. Our crops of wheat have been rather scanty, owing partly to the rigors of the winter, partly to an insect,[1] which in many places has destroyed whole fields of that grain. The same insect has since the harvest fallen upon the Corn with considerable damage; but without some very unusual disaster to that article the crop will be exuberant, & will afford plentiful supplies for the W. India Islands if their European Masters will no longer deny themselves the benefit of such a trade with us. The crop of the Tobacco now on the ground will if the weather continues favorable be tolerably good, though much shortened on the whole by the want of early seasons for transplanting & an uncommon number of the insects which prey upon it in its different stages. It will be politic I think for the people here to push the culture of this article whilst the price keeps up, it becoming more apparent every day that the richness of soil & fitness of climate on the Western waters will in a few years, both reduce the price & engross the culture of it. This event begins to be generally foreseen & increases the demand greatly for land on the Ohio. What think you of a guinea an acre being already the price for choice tracts with sure titles?

Nothing can delay such a revolution with regard to our staple, but an impolitic & perverse attempt in Spain

[1] Chinch-bug. Note in MS.

to shut the mouth of the Mississippi against the inhabitants above. I say *delay*, because she can no more finally stop the current of trade down the river than she can that of the river itself. The importance of this matter is in almost every mouth. I am frequently asked what progress has been made towards a treaty with Spain & what may be expected from her liberality on this point, the *querists all counting on an early ability* in the *western settlements to apply to other motives if necessary.*[1] My answers have both from ignorance & prudence been evasive. I have not thought fit however to cherish unfavorable impressions, being more & more led by revolving the subject, to conclude that Spain will never be so mad as to persist in her present ideas. For want of better matter for correspondence, I will state the grounds on which I build my expectation.

First. [1]*Apt as* the policy of *nations* is to *disregard justice* and the *general rights of mankind I deem* it no *small advantage* that these *considerations are in our* favour. They must *be felt in* some *degree* by the *most corrupt councils* on a *question whether* the interest of *millions shall be sacrificed* to *views concerning* a *distant and paltry settlement ;* they are *every day* acquiring weight *from the progress of philosophy* and *civilization* and they must *operate on* those *nations of Europe* who have *given us a title* to *their friendly offices* or who may wish to *gain a title to ours.*

Secondly. May not something be hoped from the

[1] Italics for cyphers.

respect which Spain may feel for consistency of *character on an appeal* to the *doctrine maintained* by *herself in the year* 1609, touching the *scheld*, or at least from the *use which may be made* of *that fact* by the *powers disposed to favor our views.*

Thirdly. The *interest* of *Spain* at *least ought to claim her attention.* (1) A *free trade down* the Mississippi would *make new Orleans one* of the *most flourishing emporiums in the world* and deriving its *happiness* from the *benevolence of Spain* would *feel a* firm *loyalty* to *her government.* At present it is *an expensive establishment settled* chiefly by *French*, who *hate* the *government which oppresses them*, who already *covet a trade* with the *upper country*, will become *every day more* sensible of the *rigor which denies it to them* and will *join in any attempt which may be made against their master.* (2) A generous *policy on the part of Spain towards the U. S.* will be the *cement of friendship & lasting peace with them.* A *contrary one* will *produce immediate heart burnings* and *sow the seeds of inevitable hostility.* The *U. S. are already a power not to be despised by Spain* the time *cannot be distant when, in spite of al precautions* the *safety of her possessions in this quarter of* the *globe must depend more on our peaceableness than her own power.* (3) In another *view it is against the interest of Spain* to throw *obstacles in the way of our Western settlements.* The part *she took* during the *late war shews that she* apprehended *less from the power growing up in her neighborhood in a state of independence* than as *an instrument* in the *hands of Great Britain.* If in this *she*

calculated on the *impotence of* the *U. S.* when *dismembered* from the *British empire she saw but little way into futurity;* if on the *pacific temper of republics* unjust *irritations* on *her part* will soon *prove to her that these* have *like passions* with *other governments.—her permanent security* seems to *lie in* the *complexity of our federal government* and the *diversity of interests among* the *members of it which* render *offensive measures improbable in council* and *difficult in execution.* If *such be the case when thirteen States compose the system* ought *she not to* wish *to see* the *number enlarged to three and twenty?* A source of *temporary security to her is our want of naval strength;* ought *she not,* then, *to favor* those *emigrations to the Western land* which, as long as *they* continue will *leave no supernumerary hands for the sea.*

Fourthly. Should none of *these circumstances affect her councils she cannot* surely so *far disregard* the *usage of nations as to* contend that *her possessions* at the *mouth of* the Mississippi *justify a total denial* of the *use of it to the* inhabitants *above when possessions much less dis*proportionate at the *mouth of other rivers* have been admitted only as *a title to a moderate toll.* The case of the *Rhine the Maese & the Scheld, as of Elbe and Oder* are if *I mistake not in point here.* How far *other rivers* may *afford parallel cases I cannot say.* That of *the Mississippi is probably the strongest in the world.*

Fifthly. Must not the general *interest of Europe* in all cases *influence the* determinations of any particular *nation in Europe and* does not that *interest in the*

present *case clearly lie* on *our side.* (1) All the *principal powers* have, in a *general view* more to *gain than to lose* by denying a *right of those* who *hold the mouths of rivers to intercept a communication* with *those above. France Gr Brit* and *Sweden* have no opportunity of *exerting such a right,* and must wish a *free passage for their merchandize in every country Spain her*self has no such *opportunity and* has *besides* three of her *principal rivers* one of them the *seat of her metropolis running* thro' *Portugal. Russia* can have nothing to *lose by denying this pretension* and is *bound to* do so *in favor of her* great *rivers* the *Neiper,* the *Niester* and the *Don* which *mouth in the black sea,* and of the *passage thro' the Dardanelles* which she *extorted from* the *Turks.* The *Emperor in* common with the *inland States of Germany* and moreover by *his possessions on the Maese and the Scheld,* has a *similar interest.* The *possessions of the King of Prussia* on the *Rhine, the Elbe, and the Oder,* are *pledges for his orthodoxy.* The *U. P^{s}. hold* it is true, the *mouths of the Maese* the *Rhine and the Scheld* but a general *freedom of trade* is so much *their policy and they now* carry on so much *of it through the channel of rivers flowing thro'* different *dominions* that their *weight can hardly be thrown into* the *wrong scale.* The only *powers that* can have an *interest in opposing* the *American doctrine* are the *Ottoman* which has already *given up the point to Russia, Denmark* which is suffered to *retain* the *entrance of the Baltic Portugal* whose principal *rivers head in Spain, Venice* which *holds the* mouth *of the Po;* and *Dantzick* which commands *that of the Vistula* if it is yet to be

considered as *a sovereign City*. The prevailing disposition of *Europe* on this *point once frus*trated an *attempt of Denmark* to exact *a toll* at the mouth of the *Elbe* by means of a *fort* on the *holstein side*, which commands it. The *fact is mentioned in Salmon's* gazetteer, under the *head of Cluestadt*. I have no *opportunity of* ascertain*ing the circumstances of the case, or of* discovering *like cases*. (2) In a more important view, the settlement of the *Western country* which will *much depend on the free use of the Mississippi*, will be *beneficial to all nations* who either directly or indirectly *trade with the U. S.* By a free *expansion of* our *people* the establishment of *internal manufactures* will not only be *long delayed* but the *consumption of foreign manufactures* long *continue* increasing; and at the same time, all the *productions of the American soil* required by *Europe in return for her manufactures*, will *proportionably increase*. The vacant land of the United States lying on the *waters of the Mississippi is perhaps equal in extent to the land actually settled*. If no *check be given to* emigrations from *the latter to the former*, they will probably keep *pace* at least *with the incr*ease of our people, till the *population of both* becomes *nearly equal*. For *twenty or twenty-five* years we shall consequently have *as few internal manufactures* in proportion to *our numbers as at present* and *at the end of* that *period* our *imported manufactures* will *be doubled*. It may be observed too, that as the *market for these manufactures* will *first increase, and the* provision *for supplying it* will *follow* the *price of supplies* will naturally *rise* in *favor of* those who *manufacture them*. On

the other hand as the *demand for the tobacco indigo rice corn &c* produced by *America for exportation* will neither *precede* nor *keep pace with their increase* the *price* must naturally *sink in favor also of* those who *consume them.* Reverse the case by supposing the *use of the Mississippi denied to us* and the consequence is that many of our *supernumerary hands* who in the *former case* would be *husbandmen on the waters of the Mississippi*, will on the *latter supposition be manufacturers* on those of *the Atlantic* and even those who may not *be discouraged from seating the vacant lands* will be obliged by the *want of vent* for the *produce of the soil* and of the *means of purchasing foreign manufactures* to *manufacture in* a great measure *for themselves.* Should Spain yield the point of the navigation of the Mississippi, but at the same time *refuse us the use of her shores*, the *benefit will be ideal only.* I have conversed with *several persons* who have a *practical knowledge of the* subject, all of whom *assure me* that not only the *right of fastening to the Spanish shore*, but that *of holding an entrepot in our own*, or of *using New Orleans as a free port*, is *essential* to a *trade thro' that channel.* It has been said that *sea vessels can get up as high as latitude thirty-two to meet* the *river craft*, but it will be with so much *difficulty and dis*advantage *as to amount to a prohibition.* The idea has also been *suggested of large magazines constructed for floating;* but if this *expedient* were *otherwise* admissible the hurricanes which in *that quarter frequently demolish edifices* on *land forbid* the least *confidence in* those which would have no *foundation but water.*

Some *territorial privileges* therefore seem to be as indispensable to the *use of the river as this is to* the prosperity of the *western country*. A place *called* "The *Englishman's turn*," on the *island of* about *six leagues below the town of New O.*, is I am told the *fittest for our* purpose, & that the lower *side of the* pen*insula* is *the best*. *Batonrouge* is also *mentioned as a* convenient *station* and *point coupé* as the *highest to* which *vessels* can *ascend* with tolerable ease. Information *however of this from men* who judge from *a general and superficial view only* can never be *received as accurate*. If *Spain be* sincerely *disposed to gratify us*, I hope *she will be* sensible it cannot be *done effectually* without *allowing a* previous *survey and deliberate choice*. Should it be *impossible* to obtain *from her a portion of ground* by other means, would it *be unadvisable to attempt it by purchase* The *price demanded* could not well *exceed* the benefit *to be obtained*, and a *reimbursement of* the public *advance* might easily be *provided* for *by the sale to individuals*, and the *conditions* which might be *annexed to their tenures*. Such a *spot* could not fail in a *little time to equal in value* the same *extent in London or Amsterdam*. The most intelligent of those with whom I have conversed think that on whatever *footing our trade may be allowed* very judicious *provision will be necessary* for a fair adjustment of *disputes between the Spaniards* and *the Americans disputes* which must be not only *noxious to trade* but *tend to embroil the two nations*. Perhaps a joint *tribunal*, under some *modification or other* might answer the purpose. There is a *precedent I see* for *such an*

establishment in the twenty-first article of the *treaty of Munster in* 1648, *between Spain and the U. N.* I am informed that, sometime after *New O.* passed *into the hands of Spain her Governor* for*bid all British vessels navigating* under the *treaty of Paris to fasten to the shore* and caused such as *did so to be cut loose.* In consequence of this *practice a British frigate went up near the town fastened to the shore and* set *out guards to fire on any* who might *attempt to cut her loose.* The *Governor after trying* in vain *to remove the fri*gate *by menaces acquiesced* after which *British vessels* indiscriminately *used the shore* and even the *residence of British Merchants* in the *town of New O., trading clandestinely* with the *Spaniards* as well as *openly* with *their own people,* [was] *winked at.* The *treaty of* 1763 *stipulated to British* subjects as well as *I recollect* no *more than the right of navigating* the *river* and if *that of using* was *admitted* under *that stipulation,* the latter *right* must have been *admitted to be included in* the former.

When you were about leaving America as a Comiss[r] for peace you intimated to me that a report was in circulation of *your being a party to jobs* for *Kentucky lands* and authorized me to contradict the report. I have some reason to believe that the credit of *your name* has *been made use of* by some who are making *purchases* or *locations in that quarter.* If they have done *it without sanction* it may not be amiss to *renew my authority.*[1]

[1] "I can with truth therefore declare to you, and wish you to repeat it on every proper occasion, that no person on earth is authorized to place my name in any adventure for lands on the western waters." Jefferson to Madison, November 11, 1784.—*Writings of Jefferson*, iv., 3.

In consequence of my letter to Mrs. Carr I have been called on by your elder Nephew, who is well satisfied with the choice made of Williamsb^{g} for his future studies. I have furnished him with letters to my acquaintance there & with a draught on your Steward for £12. He will be down by the opening of Mr. Maury's school at the close of the vacation, which lasts from the beginning of Augst to the end of Septr. I have the greater hopes that the preference of this School will turn out a proper one, as it has rec^{d} the approbation of the literary gentlemen of Williamsb^{g} & will be periodically examined by Mr. Wythe & others. Your younger Nephew is with Maj^{r} Callis, who will keep [school?] some time longer, I am at a loss as yet where to fix him, but will guard as much as possible agst any idle interval. I am, very affect^{ly}, dear Sir, y friend and serv^{t},

TO JAMES MADISON. MAD. MSS.

PHILAD^{A} Sepr 6, 1784.

HON'D SIR,—I arrived at this place the night before last only, having declined starting from Fredg. at the time I proposed when I parted with you, & having staid at Baltimore one day, at the latter place I fell in with the Marquis & had his company thus far. He is proceeding Northw^{d} as far as Boston from whence he goes to the Moran Treaty at Fort Stanwix and from thence returns to Virg^{a} about the same time that I must be there. He presses me much to fall into his plan, and I am not sure that I shall decline it. It

will carry me farther than I had proposed, but I shall be rewarded by the pleasure of his company and the further opportunity of gratifying my curiosity. I have nothing to add at present but that I am your affec son

TO THOMAS JEFFERSON. MAD. MSS.

PHILAD^A Sepr 7th, 1784.

DEAR SIR,—Some business, the need of exercise after a very sedentary period, and the view of extending my ramble into the Eastern States which I have long had a curiosity to see have brought me to this place. The letter herewith enclosed was written before I left Virginia, & brought with me for the sake of a conveyance hence. Since the date of it I have learned that Mr Short who was to be the bearer of the letter to which it refers has not yet left Richmond. The causes of his delay are unknown to me. At Baltimore I fell in with the Marquis de la Fayette returning from a visit to Mount Vernon. Wherever he passes he receives the most flattering tokens of sincere affection from all ranks. He did not propose to have left Virginia so soon but Genl Washington was about setting out on a trip to the Ohio, and co^d not then accompany him on some visits as he wished to do. The present plan of the Marquis is to proceed immediately to New York, thence by Rhode Island to Boston, thence thro' Albany to Fort Stanwix, where a treaty with the Indians is to be held the latter end of this month, thence to Virginia so as to meet the Legislature at Richmond. I have some thoughts

of making this tour with him, but suspend my final resolution till I get to N. Y. whither I shall follow him in a day or two.

The *relation in*[1] which *the Marquis stands to France* and *America has induced me to enter into a free conversañ with him on the* subject *of the Mississippi.* I have *endeavored emphatically to impress* on *him* that the *ideas* of *America and of Spain irreconcileably clash that unless the mediation of France be effectually exerted, an actual rupture is near at hand that in such an event the connection between France and Spain* will *give the enemies of the former in America the fairest opportunity of involving her in our resentmts against the latter,* and *of introducing Great Brit. as a party with us as against both that America cannot possibly be diverted* from *her object, and therefore France is bound to set every engine at work to divert Spain from hers;* and *that France has besides a* great *interest in a trade with the western country thro' the Mississippi.* I thought *it not amiss also to suggest to him* some of the *considerations which seem to appeal to the produce of Spain. He admitted the force of everything I said told me he would write in the most* [favorable] *terms to the Count de Vergennes* by *the packet* which will probably *carry this and let me see his letter at N. York before he sends it. He thinks that Spain is bent on excluding us from the Mississippi and mentioned* several *anecdotes* which *happened while he was at Madrid in proof of it.*

The Committee of the States have dispersed.

[1] Italics for cypher.

Several of the Eastern members hav^g^ by quitting it reduced the number below a quorum, the impotent remnant thought it needless to keep together. It is not probable they will be reassembled before Nov^r^, so that there will be an entire interregnum of the fœderal Government for some time, against the intention of Cong^s^ I apprehend, as well as against every rule of decorum.

The *Marquis this moment stepped into my room & seeing my cyphers before me dropped* some *questions which obliged me* in order *to avoid reserve to let him know* that *I was writing to you.* I *said nothing on the subject* but *he will probably infer from our conversat^n^ that the Mississippi is most in my thoughts.*

Mrs. House charges me with a thousand compliments & kind wishes for you and Miss Patsy. We hear nothing of Mrs. Trist since her arrival at the Falls of the Ohio, on her way to N. Orleans. There is no doubt that she proceeded down the river thence, unapprized of her loss. When & how she will be able to get back since the Spaniards have shut all their ports ag^st^ the U. S., is uncertain & gives much anxiety to her friends. Browze has a windfall from his grand mother of £1000 sterling. Present my regards to Miss Patsy and to Mr. Short if he should be with you, and accept yourself Dear Sir, the sincerest affection of your friend & servant.

TO THOMAS JEFFERSON.

N. York, Octr 11, 1784.

Dear Sir,—My last dated from this place on the 14[15] ult: informed you of my projected trip to Fort

Schuyler. I am this moment arrived so far on my return to Virginia. My past delay requires so much hurry now that I can only drop a few lines for the packet which is to sail on the 15th inst. The Marquis & myself were overtaken at Albany by Mr. de Marbois, on the same errand with ourselves. We reached Fort S. on the 29, & on the next day paid a visit to the Oneida Nation 18 miles distant. The Comiss^{rs} did not get up till the saturday following. We found a small portion only of the six nations assembled; nor was the number much increased when we quitted the scene of business. Acc^{ts} however had come of deputies from more distant tribes being on the way. The Marquis was rec^{d} by the Indians with equal proofs of attachment as have been shewn him elsewhere in America. This personal attachment with their supposed predilection for his nation, and the reports propagated among them that the Alliance between F. & U. S. was transient only, led him with the sanction of the Comiss^{rs} to deliver a Speech to the Indian Chiefs coinciding with the object of the Treaty. The answers were very favorable in their general tenor. Copies of both will be sent to Mons. de Vergennes & the [n] M. de Castries by Mr. Marbois & be within the reach of your curiosity. The originals were so much appropriated to this use during my stay with the Marquis that I had no opportunity of providing copies for you. What the upshot of the Treaty will be is uncertain. The possession of the posts of Niagara &c by the British is a very inauspici ous circumstance. Another is that we are not likely

to make a figure otherwise that will impress a high idea of our power or opulence. These obstacles will be rendered much more embarrassing by the instructions to the Comiss^rs which I am told leave no space for negociation or concession, & will consequently oblige them in case of refusal in the Indians to yield the ultimate hopes of Congress to break up the Treaty. But what will be the consequence of such an emergency? Can they grant a peace without cessions of territory—or if they do must not some other price hereafter purchase them. A Truce has never I believe been introduced with the Savages nor do I suppose that any provision has been made by Congress for such a contingency. The perseverance of the British in retaining the posts[1] produces various conjectures. Some suppose it is meant to enforce a fulfilment of the Treaty of peace on our part. This interpretation is said to have been thrown out on the other side. Others that it is a salve for the wound given the Savages who are made to believe the posts will not be given up till good terms shall be granted them by Congress. Others that it is the effect merely of omission by the B. Gov^t to send orders. Others that it is meant to fix the fur trade in the B. channel & it is even said that the Gov^t of Canada has a personal

[1] . . . "That one reason assign'd for detaining the Western posts from the United States was, because Virginia had not repealed her laws that impede the recovery of British debts. It is sincerely to be lamented that our State should be so charged, and it is much to be wished that the Advocates for retaining those laws w^d no longer insist upon furnishing pretext for detaining from the U. S. possessions of such capital importance to the Union as these posts are."—Richard Henry Lee to Madison, November 20, 1784. *Mad. MSS.*

interest in securing a monopoly of at least the crop of this Season. I am informed by a person just from Michilimackinac that this will be greater than it has been for several seasons past, or perhaps any preceding season, & that no part of it is allowed by the British Commanders to be brought thro' the U. S. From the same quarter I learn that the posts have been lately well provisioned for the winter, & that reliefs if not reinforcements of the garrisons will take place. Col: Monroe had passed Oswego when last heard of & was likely to execute his plan. If I have time & opportunity I will write again from Philad[a] for which I set out immediately; if not from Richmond. The Marq[s] proceeded from Albany to Boston from whence he will go via R. Island, to Virg[a], and be at the Assembly. Thence he returns into the N. States to embark for Europe.

I am Y[rs] affec[ly]

TO THOMAS JEFFERSON. MAD. MSS.

PHILADA. Octr. 17 1784.

DEAR SIR,—On my arrival here I found that Mr. Short had passed through on his way to N. York & was there at the date of my last. I regret much that I missed the pleasure of seeing him. The inclosed was put into my hands by Mrs. House, who recd[d] it after he left Philad[a] My two last, neither of which were in cypher, were written as will be all future ones in the same situation, [1] *in expectation of their being read by postmasters.* I am well assured that this is

[1] Italics for cypher.

the *fate of all letters* at least to *and from public persons* not only in *France but all the other Countries of Europe.* Having now the *use of my cypher I can write without restraint.* In my last I gave you a sketch of what passed at Fort Schuyler during my stay there, mentioning in particular that the *Marquis had made a speech to the Indians with the sanction of the Commiss^rs Wolcott, Lee, Butler.*[1] The question will probably occur how *a foreigner and a private one,* could *appear on the theatre of a public treaty* between *the U. S. & the Indian nations* and how *the Commissioners could lend a sanction to it.* Instead of offering *an opinion of the measure* I will state the *manner in which it* was *brought about.* It seems that most of the *Indian tribes* particularly *those of the Iroquois retain a strong predilection for the French* and most of *the latter an enthusiastic idea of the Marquis.* This idea has resulted from *his being a Frenchman the* figure *he has made during the war* and the arrival of several important *events which he foretold to* them soon after *he came to this country.* Before *he went to fort Schuyler* it had been suggested, either in *compliment or sincerity* that his *presence & influence* might be of *material service to the treaty.* At *albany* the *same thing had been said to him by general Wolcot.* On *his arrival at Fort S. Mr. Kirkland* recommended an exertion of *his influence as of essential conseq^ce to the treaty,* painting in the strongest colours the *attachment of the* Indians *to his person,* which seemed indeed to be *verified by their caresses* and the artifices em-

[1] Oliver Wolcott, Richard Butler, and Arthur Lee.

ployed by the *British partizans to frustrate the objects of the treaty* among which was a pretext that the *alliance between the U. S. and France* was *insincere and transitory* and consequently the respect of *the Indians for the latter ought to be no motive for their respecting the former.* Upon these *circumstances the M. grounded a written message to the Commissrs.* before *they got up* intimating *his disposition to render the U. S.* any *service his small* influence *over the Indians* might *put in his power* and *desiring to know* what *the Commissioners would chuse him to say.* The *answer in Mr. Lee's hand* consisted of *polite acknowledgments* and information that the *Commissrs. would be happy in affording him an opportunity of saying whatever he might wish* forbearing to *advise or suggest w*[t] *it would be best for him to say. the M. perceived the caution but imputed it to Lee alone.* As *his stay was to be* very *short* it was *necessary for him to take provisional measures* before *the arrival of the Commissrs* and particularly for *calling in the Oneida Chiefs* who were *at their town.* It fell *to my lot to be consulted in his dilemma.* My *advice was* that *he should invite the* chief *in such a way as* would *give him an opportunity of addressing* them *publicly, if* on a *personal interview with the Commissioners* it should be judged expedient ; or *of satisfying their expectations* with a friendly *entertainment in return for the civilities his visit to their* town had met with. This *advice was approved ;* but the *Indians* brought with *them such ideas of his importance as* no *private reception* would *probably have been equal to.* When *the Commissioners arrived the*

M. consulted them in person. They were *reserved, he was embarrassed.* Finally *they changed their plan* and *concurred* explicitly *in his making a Speech in form.* He accordingly *prepared one communicated it to the Commrs.* and *publicly pronounced it the Commrs. premising* such an one as was thought proper to *introduce his.* The *answer of the sachems,* as well as the *circumstances of the audience* denoted the *highest reverence for the orator.* The chief of *the Oneidas said* that the *word which he had spoken to them early in the war* had *prevented them from being misled to the wrong side of it.* During this *scene* and even during the *whole stay of the M. he* was *the only conspicuous figure.* The *Commissioners were eclipsed* All of *them probably felt it. Lee complained to me of the* immoderate *stress laid on the* influence *of the M.,* and evidently *promoted his departure.* The *M. was not insensible of it, but consoled himself* with the *service* which *he thought the Indian Speech* would witness that *he had rendered to the U. S.* I am persuaded that the *transaction* is also *pleasing to him in another view as* it will *form a bright column in the Gazettes of Europe.* As it is *blended with the proceed*^{gs} *of the Comm*^{rs}, it will probably not *be published in America very soon.* The time I have lately *passed with the M. has given me a* pretty thorough *insight into his character.* With great *natural frankness of temper he unites much address and very considerable talents.* In *his politics he* says *his three hobby-horses* are the *alliance between France and the U. S.,* the *union of the latter* and the *manumission* of the *slaves.*

The two former are the *dearer to him*, as *they are connected* with *his personal glory*. The last *does him real honor*, as it is a *proof of his humanity*. In a word, I take *him to be as amiable a man as can be imagined and as sincere an American as any Frenchman can be; one whose past services gratitude* obliges *us to acknowledge and whose future friendship* prudence *requires us to cultivate.*

The Committee of the States have never reassembled. The case of Longchamps has been left both by the Legislature & Executive of this State to its Judiciary course. He is sentenced to a fine of 100 Crowns, to 2 years' imprisonment, and Security for good behaviour for 7 years. On teusday morning I set off for Richmond, where I ought to be tomorrow, but some delays have put it out of my power. The ramble I have taken has rather inflamed than extinguished my curiosity to see the Northern and N. W. Country. If circumstances be favorable I may probably resume it next Summer. Present my compliments to Miss Patsy, for whom as well as yourself Mrs. House charges me with hers. She has lately rec^{d} a letter from poor Mrs. Trist, every syllable of which is the language of affection itself. She had arrived safe at the habitation of her dec^{d} Husband, but will not be able to leave that Country till the Spring at the nearest. The only happiness she says she is capable of there, is to receive proofs that her friends have not forgotten her. I do not learn what is likely to be the amount of the effects left by Mr. T. former accounts varied from 6 to 10,000 dollars.

I am my Dear Sir, Y^{rs} very affect.

TO JAMES MONROE. MAD. MSS.

RICHMOND, Nov. —, 1784.

DEAR SIR,—Your favor without date was brought by thursday's post. It inclosed a Cypher for which I thank you & which I shall make use of as occasion may require, though from the nature of our respective situations, its chief value will be derived from your use of it. Ge[l] Washington arrived here on sunday last, and the Marquis on thursday. The latter came from Boston in a French frigate. They have both been addressed & entertained in the best manner that circumstances would admit. These attentions and the balloting for public offices have consumed the greatest part of the past week. Mr. Jones is put into the place of Mr. Short, Mr. Roane and Mr. M. Selden are to go into those of Mr. M. Smith & Col. Christian who are the victims to that part of the Constitution which directs a triennial purgation of the Council. The vote is not to take effect till the Spring, but was made now in consequence of the discontinuance of the Spring Session. The rejected Candidates were Col. Bland, Cy[s] Griffin, G. Webb, W. C. Nicholas, Mr. Breckenridge, Col. Carrington. The latter was within one vote of Mr. Selden, Col. B. Mr. N., & Mr. B., had as nearly as I recollect between 20 & 30 votes, Mr. G. & Mr. W. very few. Mr. H. Innes late Judge of the Kentucky Court is to succeed W[alker] D[aniel], late Attorney General in that District. His competitor was Mr. Stewart who was about 15 votes behind.

I am D[r] Sir Y[rs] sincerely.

NOTES OF SPEECH AGAINST ASSESSMENTS FOR SUPPORT OF RELIGION. NOVEMBER — 1784. MAD. MSS.

I. Rel. not within purview of civil authority.[1]

Tendency of estab^{g} Xnty—1. to project of Uniformity. 2. to penal laws for support^{g} it.

Progress of Gen. Asses^{t} proves this tendency.

Difference between estab^{g} and tolerating errour.

"True question—not Is Rel. necess^{y},—but

II. are Relig^{s} Esta^{bts} neces^{y} for Religion? No.

1. propensity of man to Religion.

2. Experience shews Relig. corrupted by Estab^{ts}.

3. Downfall of States mentioned by Mr. H.—happened where there was estab^{t}.

4. Experience gives no model of Genl Ass^{t}.

5. Case of Pa. explained—not solitary. N. J. See const. of it. R. I. N. Y. D. factions greater in S. C.

6. Case of primitive Xnty.
of Reformation.
of Dissenters formerly.

7. Progress of Religious liberty.

III. Policy—

1. promote emigrations from State.

2. prevent immig. into it, as *asylum*.

IV. Necessity of Estab^{t} inferred from state of co^{y}.

True causes of disease.

1. war } common to other States & produce same com-
2. bad laws } pl^{ts} in N. E.

3. pretext from taxes.

4. state of administration of Justice.

5. transition from old to new plan.

6. policy and hopes of friends to G. Ass^{t}.

True remedies not Estab^{t}.—but, being out of war,

1. laws to cherish virtue.

[1] A paraphrase of this speech may be found in Rives i., 604. The speech is written in a microscopic hand on the back of a letter.

2. administration of justice.
3. personal example—associations for R.
4. By present vote, cut off hope of G. ass$^{t.}$
5. Education of youth.

V. Probable defects of Bill,

1. limited.
2. in particular.
3. What is Xnty? Courts of law to Judge.
4. What edition: Hebrew, Septuagint, or Vulgate? What copy what translation?
5. What books canonical, what apocryphal? the papists holding to be the former what protestants the latter, the Lutherans the latter what the protestants & papists ye former.
6. In what light are they to be viewed, as dictated every letter by inspiration, or the essential parts only? Or the matter in general not the words?
7. What sense the true one for if some doctrines be essential to Xnty those who reject these, whatever name they take are no Xn Society?
8. Is it Trinitarianism, Arianism, Socinianism? Is it salvation by faith or works also, by free grace or by will, &c., &c.
9. What clue is to guide [a] Judge thro' this labyrinth when ye question comes before them whether any particular society is a Xn society?
10. Ends in what is orthodoxy, what heresy.
    Dishonors christianity.
    panegyric on it, on our side.
    Decl. Rights."

TO JAMES MONROE. MAD. MSS.

RICHMOND, Novr 14th, 1784.

DEAR SIR,[1]— * * * The Indians begin to be unquiet we hear both on the N. W. & S. E. sides

[1] The opening of the letter relates to Monroe's journey over the same ground substantially that Madison had just travelled.

of the Ohio. The Spaniards are charged with spurring on the latter. As means of obviating the dangers, the H. of D. have resolved to authorize the Executive to Suspend the surveying of land within the unpurchased limits, & to instruct the Delegation to urge in Cong[s] Treaties with the Southern Indians and negociations with Spain touching the Mississip[i]. They also propose to set on foot surveys of Potowmac & James Rivers from their falls to their sources. But their principal attention has been & is still occupied with a scheme proposed for a Gen[l] Asse[t]; 47 have carried it ag[st] 32.[1] In its present form it excludes all but Xn Sects. The Presbyterian Clergy have remonstrated ag[st] any narrow principles, but indirectly favor a more comprehensive establish[t]. I think the bottom will be enlarged & that a trial will be made of the practicability of the project. The Successor to Mr. H[arrison] is not yet appointed or nominated. It is in the option of Mr. H[enry], and I fancy he will not decline the service. There will be three vacancies in the Council, for which no nominations have been made. Mr. C. Griffith will probably be named, & Mr. W. Nicholas. Mr. Roane is also spoken of.

I am, D[r] Sir, Y[rs] sincerely.

[1] The resolution was brought in by Henry. It declared that "the people of the commonwealth, according to their respective abilities, ought to pay a moderate tax or contribution for the support of the Christian religion, or of some Christian church, denomination, or communion of Christians, or of some form of Christian worship." Only one petition appeared against the measure. A special committee with Henry at the head was appointed to prepare the bill. See Rives i., 599, *et seq.*

TO JAMES MONROE. MAD. MSS.

RICHMOND, Novr 27, 1784.

DEAR SIR,—Your favor of the 15th inst: came to hand by thursday's post. Mine by the last post acknowledged your preceding one. The umbrage given to the Com^srs of the U. S. by the negociations of N. Y. with the Indians was not altogether unknown to me, though I am less acquainted with the circumstances of it than your letter supposes. The Idea which I at present have of the affair leads me to say that as far as N. Y. may claim a right of treating with Indians for the purchase of lands within her limits, she has the confederation on her side; as far as she may have exerted that right in contravention of the Genl Treaty, or even unconfidentially with the Com^srs of Cong^s, she has violated both duty & decorum. The fœderal articles give Cong^s the exclusive right of *managing all affairs* with the Indians *not members* of any State, under a proviso, that the *Legislative authority* of the State within its own limits be not violated. By Indians not members of a State, must be meant those, I conceive who do not live within the body of the Society, or whose Persons or property form no objects of its laws. In the case of Indians of this description the only restraint on Congress is imposed by the *Legislative authority* of the State.

If this proviso be taken in its full latitude, it must destroy the authority of Congress altogether, since no act of Cong^s within the limits of a State can be conceived which will not in some way or other

encroach upon the authority [of the] State. In order then to give some meaning to both parts of the sentence as a known rule of interpretation requires, we must restrain this proviso to some particular view of the parties. What was this view? My answer is that it was to save to the States their right of preemption of lands from the Indians. My reasons are. 1. That this was the principal right formerly exerted by the Colonies with regard to the Indians. 2. that it was a right asserted by the laws as well as the proceedings of all of them, and therefore being most familiar, w^{d} be most likely to be in contemplation of the parties. 3. that being of most consequence to the States individually, and least inconsistent with the general powers of Congress, it was most likely to be made a ground of Compromise. 4. it has been always said that the proviso came from the Virg^{a} Delegates, who w^{d} naturally be most vigilant over the territorial rights of their Constituents. But whatever may be the true boundary between the authority of Cong^{s} & that of N. Y., or however indiscreet the latter may have been I join entirely with you in thinking that temperance on the part of the former will be the wisest policy. I concur with you equally with regard to the ignominious secession at Annapolis. As Cong^{s} are too impotent to punish such offences, the task must finally be left to the States and experience has shewn in the case of Howel that the interposition of Cong^{s} agst an offender instead of promoting his chastisement, may give him a significancy wch he otherwise w^{d} never arrive at and may

induce a State to patronize an act which of their own accord they would have punished. I am sorry to find the affair of Mr. de Marb——s. taking so serious a face. As the insult was committed within the jurisdiction of Pen^{a}, I think you are right in supposing the offender could not be transferred to another jurisdiction for punishment. The proper questions therefore are 1. whether the existing law was fully put in force agst him by P^{a}? 2. whether due provision has been made by that State agst like contingencies? Nothing seems to be more difficult under our new Governments than to impress on the attention of our Legislatures a due sense of those duties which spring from our relations to foreign nations. Several of us have been labouring much of late in the G. Assembly here to provide for a case with which we are every day threaten'd by the eagerness of our disorderly Citizens for Spanish plunder & Spanish blood. It has been proposed to authorize Cong^{s} Whenever satisfactory proof shall be given to them by a foreign power of such a crime being committed by our Citizens within its jurisdiction as by the law of Nations call for a surrender of the Offender, & the foreign power shall actually make the demand, that the Executive may at the instance of Cong^{s} apprehend & deliver up the offender. That there are offences of that class is clearly stated by Vattel in particular, & that the business ought to pass through Cong^{s}. is equally clear. The proposition was a few days ago rejected in Com^{ittee} of the whole. To-day on the report of the Com^{e} it has been agreed to by a small majority. This

is the most material question that has agitated us during the week past. The Bill for a Religious Assesᵗ has not been yet brought in. Mr. Henry the father of the scheme is gone up to his Seat for his family & will no more sit in the H. of Delegates a circumstance very inauspicious to his offspring. An attempt will be made for circuit Courts, & Mr. Jones has it in contemplation to try whether any change has taken place in the sentiments of the H. of D. on the subject of the Treaty. He will write to you by this post & I refer to him for what I may have omitted.

With sincere regard & esteem I am Dʳ Sir

Yʳ friend & servᵗ.

TO JAMES MADISON. MAD. MSS.

RICHᴰ. Novʳ 27, 1784.

Honᴰ Sir,—Having a moment's time to drop you a line I inform you that the Bill for confirming surveys agˢᵗ subsequent entries has been negatived by a large majority, rather on the principle that it was unnecessary & retrospective, than that it was unjust in itself. On the contrary all the principal gentlemen were of opinion that it was just, but already provided for by the law. Mr. Innes the late Judge of the Kentucky Court, in particular told me he thought such surveys could not be overset. You will have heard of the vote in favor of the Genˡ. Assessᵗ. The bill is not yet brought in & I question whether it will, or if so whether it will pass. This day a vote

passed without a dissent for Circuit Courts. What opposition may be made to its passage I know not. I have not yet found time to do your business at the Land Office. I expected before this to have seen my brother A. & Majr Moore. I have been a little indisposed for a few days with a bad cold which still continues, otherwise I am well. Mr Joseph will tell you the price of Tobo I think it will rise.

With regards to the family

I am Dr Sir Your Affecte son.

TO JAMES MADISON. MAD. MSS.

RICHMOND, Decr 3, 1784.

HON'D SIR, — My last informed you that a vote had passed in favor of Circuit Courts. A bill has since been brought in and will shortly be considered. The difficulty of suiting it to every palate, & the many latent objections of a selfish & private nature which will shelter themselves under some plausible objections of a public nature to which every innovation is liable render the event extremely uncertain. In the Course of this week The H. of D. have agreed to pay the British debts by annual portions for 7 years disallowing interest between the 19th of Apl 1775 & 3d of March 1783, the period of hostilities. It is not unlikely that the same observations above made on the Circuit Court bill may be applicable to this case. The bill for Genl Assr was brought in yesterday. Its fate is equally uncertain. I inclose a copy of Treaty at Fort Stanwix which I recd by yesterdays post.

The Comiss^rs were proceeding to Fort Pitt to hold another Treaty: No Cong^s had been formed on the 20th of Novr nor much prospect of a speedy one. The British hold the N. Western Post yet & assign in justification the breach of Peace in Virg^a & N. York. I am much better than at ye date of my last & with affec^e respect to family remain

Y^r Dutiful Son.

TO JAMES MONROE. MAD. MSS.

RICHMOND, Decr 4. 1784

DEAR SIR, — On Saturday last a proposition was agreed to for establishing Circuit Courts throughout this Commonwealth, and yesterday a bill for that purpose was reported. On wednesday next it will undergo a discussion of the Com^e of the Whole. The circumstances under which it has passed thus far seem to promise a favorable issue, but the dangers which it is yet to go thro' are formidable. They proceed from latent & interested objections which have on several former occasions proved fatal to similar attempts. The plan is pretty analogous to the Nisi prius establishm^t in England. On Tuesday sundry propositions were made by Mr. Jones in favor of the 4 art: of the Treaty of peace. They passed by a large majority with blanks as to the length of time to be given for the payment of the principal and for disallowing the interest. The former was filled up with seven years, in preference to 10, 8, 6, & 5 which were contended for on different sides. The latter with the period between Ap^l 19, 1775, & March 3, 1783, in preference

to the period between the first date & May 1784, the date of the exchange of Ratifications. The bill will probably pass but not I fear without some improper ingredients, & particularly some conditions relative to the N. W. Posts, or the Negroes which lye without our province. The bill for the Religious Ass[t] was reported yesterday and will be taken up in a Com[e] of the whole next week. Its friends are much disheartened at the loss of Mr. Henry. Its fate is I think very uncertain. Another Act of the H. of D. during the pres[t] week is a direction to the Executive to carry into effect the vote of a Bust to the Marquis de la fayette, to be presented to the City of Paris, & to cause another to be procured to be set up in this Country. These resolutions are so contrived as to hide as much as possible the circumstance in the original vote of the bust being to be presented to the Marquis himself. I find by a Letter from G[l] Washington that he was on the 28th Ult: just setting out to accompany the Marquis to Annapolis & thence to Baltimore. The latter may therefore soon be expected at Trenton. He has been much caressed here as well as everywhere else in his Tour, and I make no doubt he will leave Cong[s] with equal reason to be pleased with his visit. I meant to have sent you a copy of the Resolutions touching the Busts, but have been disappointed in getting one. They were offered by Mr. Jones & agreed to unanimously, as they no doubt will also be in the Senate. Wishing you all happiness, I am

D[r] Sir

Yrs. sincerely

TO JAMES MONROE. MAD. MSS.

RICHMOND, Decr. 24th, 1784.

DEAR SIR,—Your favor of the 14th instant came to hand on thursday. A proposition was made a few days ago for this State to empower Congs. to carry into effect the imposts as soon as 12 States should make themselves parties to it. It was rejected on the following grounds 1. that it would present a disagreeable aspect of our affairs to Foreign nations. 2. that it might lead to other combinations of lesser numbers of the States. 3. that it would render R.I. an inlet for clandestine trade. 4. that it would sour her temper still further at a crisis when her concurrence in some general & radical amendment of the Confederation may be invited by Congress. 5. that the chance is almost infinitely agst. a Union of 12 States on such new ground, and consequently the experiment would be only a fresh display of the jarring policy of the States, and afford a fresh triumph & irritation to R. Island. The Act empowering Congs. to surrender Citizens of this State to the Sovereign demanding them for certain crimes committed within his jurisdiction has passed. Congress are to Judge whether the crimes be such as according to the Law of nations warrant such demand, as well as whether the fact be duly proven. Concurrent provision is made for punishing such offences by our own laws in case no such demand be made to or be not admitted by Congs., and legal proof can be had. The latter law extends to offences agst. the Indians. As these tribes do not observe the law of Nations it was supposed

neither necessary nor proper to give up Citizens to them. The Act is not suspended on the concurrence of any other State, it being judged favorable to the interest of this tho' no other should follow the example, and a fit branch of the fœderal prerogative. The Bill for Assize Courts has passed the Senate without any material amendment, is enrolled, and waits only to be examined by the Com̃itte & signed by the Speakers. The Genl. Assesst. on the question for engrossing it, was yesterday carried by 44 agst. 42. Today its third reading was put off till Novr. next, by 45 agst. 37 or thereabouts, and it is to be printed for consideration of the people. Much business is still on the table but we shall probably rise about New Years day. I am, Dr. Sir with sincere regard Yr. friend & servt.

TO RICHARD HENRY LEE. MAD. MSS.

Extract from a letter from J. M. to Richd. H. Lee, Decr. 25, 1784.

In the course of the last week a proposition was made to impower Congress to collect the Impost within this State (Virginia) as soon as 12 States shd. unite in the scheme. The argumts. which prevailed agst. it were the unfavorable aspect it wd. present to foreigners, the tendency of the example to inferior combinations—the field it wd. open for contraband trade—its probable effect on the temper of R. Isld. which might thwart other necessary measures of requiring the unanimity of the States—the improbability of the union of 12 States on this new ground, a failure of which wd. increase the appearance of discord in their policy; and give fresh triumph & irritation to Rh. Isd.

I have not yet found leisure to scan the project of a Continental Convention with so close an eye as to have made up any observations worthy of being mentioned to you. In general I

hold it for a maxim that the Union of the States is essential to their safety agst foreign danger, & internal contention; and that the perpetuity and efficacy of the present system cannot be confided in. The question therefore is, in what mode, & at what moment the experiment for supplying the defects ought to be made. The answer to this question can not be given without a knowledge greater than I possess of the temper & views of the different States. Virginia seems I think to have excellent dispositions towards the confederacy, but her assent or dissent to such a proposition w^{d} probably depend on the chance of its having no opponent capable of rousing the prejudices & jealousies of the Assembly agst innovations, particularly such as will derogate from their own power & importance. Should a view of the other States present no objections agst the experiment, individually I w^{d} wish none to be presupposed here.

RESOLUTIONS TOUCHING THE NAVIGATION AND JURISDICTION OF THE POTOMAC. MAD. MSS.

December 28th 1784.

Resolved that the Commissioners or any two of them appointed on the 28th day of June last to concert with commissioners on the part of Maryland, regulations touching the navigation and jurisdiction of the Potowmac, be further authorized with the said commissioners in representing to the State of Pennsylvania, that it is in contemplation of the two States to promote the clearing and extending the navigation of Potowmac from tide-water upwards as far as the same may be found practicable; to open a convenient road from the head of such navigation to the waters running into the Ohio; and to render these waters navigable as far as may be necessary and proper: that said work will require great expense which may not be repaid, unless a free use be secured to the said States & their citizens, of the waters of the Ohio and its branches, so far as the same lie within the limits of Pennsylvania: that as essential advantages will accrue from such works to a considerable portion of the said State, it is thought reasonable that the Legislature thereof should by some previous act

engage that for the encouragement of the said works all articles of produce or merchandize which may be conveyed to or from either of the said two states, through either of the said rivers within the limits of Pennsylvania, to or from any place without the said limits, shall pass throughout free from all duties or tolls whatsoever, other than such tolls as may be established and be necessary for reimbursing expenses incurred by the State or its Citizens in clearing, or for defraying the expense of preserving the navigation of the said rivers: and that no articles imported into the State of Pennsylvania through the channel or channels or any part thereof to be opened as aforesaid and vended or used within the said State, shall be subject to any duties or imposts other than such articles would be subject to if imported into the said State thro' any other channel whatsoever: and it is further resolved that in case a joint representation in behalf of this State and of Maryland shall be rendered by circumstances unattainable, the said Commissiõrs or any two of them may of themselves make such representations on the subject as will in such event become proper; and that in either event they report their proceedings to the next General assembly.

Resolved that a copy of the above Resolutions be transmitted forthwith by the Executive to the State of Maryland.[1]

[1] Madison also had a scheme for improving the roads of the State, and prepared resolutions in the winter of 1784–85 to be introduced at this session of the Legislature, but the time being inopportune he allowed the matter to drop.

"Whereas the opening & keeping in repair of direct roads from the different parts of this Common'th to the several market Towns, and from one market Town to another would greatly encourage agriculture by cheapening the transportation of its productions to the places of consumption & exportation, and would in other respects contribute to the improvement of the Country by facilitating intercourse between the different parts thereof, and it is considered by the present general assembly, that altho' the various necessary burdens which now press on the people render a general plan for the aforesaid purpose unadvisable at this moment, yet that such a beginning ought to be made in the work as will not only produce immediate advantage to the community; but will lead to a more diffusive & complete execution thereof: and it is the more necessary that the principal roads should be so straightened before the value of the ground to be obtained from individuals increases. Be it therefore enacted that the governour with the advice of the Council of State shall be & he hereby is authorized to cause surveys to be made in order to determine the best courses for

TO THOMAS JEFFERSON. MAD. MSS.

RICHMOND, Jany 9th, 1785.

DEAR SIR,—My last was dated in Philad^{a}., Octr 17. I reached this place on the 14th day after that fixed for the meeting of the Assembly and was in time for the commencement of business. Yesterday put an end to the tedious Session. According to my promise I subjoin a brief review of its most material proceedings.

An Act for the establisht. of Courts of Assize.

This act was carried through the House of Delegates against much secret repugnance, but without any direct and open opposition. It luckily happened that the latent opposition wanted both a mouth and a head. [1]*Mr. Henry* had been previously *elected Governor* and was *gone for his family.* From *his conversation since I* surmise that *his presence* might have *been fatal.* The Act is formed precisely on the English pattern, and is nearly a transcript from the bill originally penned in 1776 by Mr. Pendleton except that writs sent blank from the Cl^{k} of Genl C^{t} are to issue in the district, but ret^{d} to G^{l} C^{t}. In the Senate it became a consideration whether the Assize Courts ought not to be turned into so many Courts of independent and complete jurisdiction, and admitting an appeal only to

roads, (having regard to the nature of the ground as well as to distance) from & to the following places to wit; from and for executing such surveys the Governor with the advice aforesaid is further authorized to appoint a proper person for each of such surveys who shall be allowed a sum not exceeding per day during his actual employment in the service, and who may take with him so many assistants & such daily wages as the Executive shall approve, the said Surveyors shall make to the Governour the "—*Mad. MSS.*

[1] Cypher represented by italics.

the Court of Appeals. If the fear of endangering the bill had not checked the experiment, such a proposition would probably have been sent down to the House of Delegates, where it would have been better relished by many than the Assize plan. The objections made to the latter were that as it required the issues to be made up and the judgments to be awarded in the General Court it was but a partial relief to suitors, and might render the service of double setts of Lawyers necessary. The friends of the plan thought these inconveniences as far as they were real, outweighed by the superior wisdom & uniformity of decisions incident to the plan ; not to mention the difference in the frequency of appeals incident to the different plans. In order to leave as few handles as possible for cavil the bill omitted all the little regulations which would follow of course, and will therefore need a supplement. To give time for this provision as well as by way of collecting the mind of the public, the commencement of the law is made posterior to the next Session of Assembly. The places fixed for the Assize Courts are Northumberland Court House, Williamsb^{g}, Accomack C^{t} House, Suffolk, Richmond, Petersburg, Brunswick C^{t} House, King & Queen C^{t} House, Prince Edwd C^{t} H., Bedford C^{t} H., Montgomery & Washington C^{t} H^{s} alternately, Staunton, Charlottesville, Fredericksb^{g}, Dumfries, Winchester, and Monongalia C^{t} H. Besides the judicial advantages hoped from this innovation, we consider it as a means of reconciling to our Gov^{t} the discontented extremities of the State.

An Act for opening and extending the navigation of Potowmac river.
An Act for do. do. of James river.

The subject of clearing these great rivers was brought forward early in the Session under the auspices of General Washington, who had written an interesting private letter on it to Govr Harrison which the latter communicated to the Genl Assembly. The conversation of the Genl during a visit paid to Richmond in the course of the Session, still further impressed the magnitude of the object on sundry members. Shortly after his departure, a joint memorial from a number of Citizens of V^a^ & Maryland, interested in the Potowmac, was presented to the Assembly, stating the practicability and importance of the work, & praying for an act of incorporation, and grant of perpetual toll to the Undertakers of it. A bill had been prepared at the same meeting which produced the Memorial, and was transmitted to Richmond at the same time. A like memorial & bill went to Annapolis where the Legislature of Maryland were sitting. The Assembly here lent a ready ear to the project, but a difficulty arose from the height of the tolls proposed, the danger of destroying the uniformity essential in the proceedings of the two States, by altering them,— and the scarcity of time for negociating with Maryland a bill satisfactory to both States. Short as the time was however, the attempt was decided on, and the negociation committed to Genl Washington himself. Genl Gates who happened to be in the way and Col. Blackburn were associated with him. The latter did not act, the two former pushed immediately to Annapolis, where

the sickness of Gen! Gates threw the whole agency on Gen! Washington. By his exertions in concert with Committees of the two branches of the Legislature, an amendment of the plan was digested in a few days, passed thro' both houses in one day with nine dissenting voices only, and despatched for Richmond, where it arrived just in time for the close of the Session. A corresponding Act was immediately introduced, and passed without opposition. The scheme declares that the subscribers shall be an incorporated body, that there shall be 500 Shares, amounting to about 220,000 dollars, of which the States of V^{a} & Mary^{d} are each to take 50 shares, that the tolls shall be collected in three portions, at the three principal falls, and with the works vest as real estate in the members of the Company, and that the works shall be begun within one year, and finished within ten years, under the penalty of entire forfeiture.

Previous to the receipt of the Act from Annapolis a bill on a different plan had been brought in and proceeded on for clearing James River. It proposed that subscriptions should be taken by Trustees and under their management solemnly appropriated to the object in view, that they should be regarded as a loan to the State, should bear an interest of 10 per c^{t}, and should entitle the subscriber to the double of the principal remaining undischarged at the end of a moderate period; and that the tolls to be collected should stand inviolably pledged for both principal & interest. It was thought better for the public to present this exuberant harvest to the subscribers than to

grant them a perpetuity in the tolls. In the case of the Potowmac which depended on another authority as well as our own, we were less at liberty to consider what w^d^ be best in itself. Exuberant however as the harvest appeared, it was pronounced by good judges an inadequate bait for subscriptions even from those otherwise interested in the work, and on the arrival and acceptance of the Potowmac plan, it was found advisable to pass a similar one in favor of James River. The circumstantial variations in the latter are 1. the sum to be aimed at in the first instance is 100,000 Dollars only. 2. the shares which are the same in number with those of Potowmac, are reduced to 200 doll^rs^ each and the number of public shares raised to 100. 3. the tolls are reduced to $\frac{1}{3}$ of the aggregate of the Potowmac tolls. 4. in case the falls at this place where alone tolls are to be paid, shall be first opened, the Company are permitted to receive the tolls immediately, and continue to do so till the lapse of ten years, within which the whole river is to be made navigable. 5. a right of pre-emption is reserved to the public on all transfers of shares. These acts are very lengthy, and having passed in all the precipitancy which marks the concluding stages of a Session, abound I fear with inaccuracies.

In addition to these acts joint resolutions have passed the Legislatures of Mary^d^ & V^a^ for clearing a road from the head of the Potowmac navigation to Cheat river or if necessary to Monongalia, & 3333$\frac{1}{3}$ Dollars are voted for the work by each State. Pennsylv^a^ is also to be applied to by the Governors of the

two States for leave to clear a road thro' her jurisdiction if it should be found necessary, from Potowmac to Yohogania; to which the Assembly here have added a proposition to unite with Maryland in representing to Pen[a] the advantages which will accrue to a part of her citizens from opening the proposed communication with the Sea, and the reasonableness of her securing to those who are to be at the expence, the use of her waters, as a thoroughfare to & from the Country beyond her limits, free from all imposts & restrictions whatever, and as a channel of trade with her citizens free from greater imposts than may be levied on any other channel of importation. This Resolution did not pass till it was too late to refer it to Gen[l] Washington's negociations with Maryland. It now makes a part of the task allotted to the Com̃iss[rs] who are to settle with Mary[d] the jurisdiction & navigation of Potowmac below tide water. By another Resolution of this State, persons are to be forthwith app[d] by the Executive to survey the upper parts of Ja[s] river, the country thro' which a road must pass to the navigable waters of New River, and these waters down to the Ohio. I am told by a member of the Assembly, who seems to be well acquainted both with the intermediate ground and with the Western waters in question, that a road of 25 or 30 miles in length will link these waters with J[s] river, and will strike a branch of the former which yields a fine navigation, and falls into the main stream of the Kenhawa below the only obstructions lying in this river down to the Ohio. If these be facts James River

will have a great superiority over Potowmac, the road from which to Cheat river is indeed computed by Gen[l] Washington at 20 miles only, but he thinks the expence of making the latter navigable will require a continuation of the road to Monongalia, which will lengthen it to 40 miles. The road to Yohogania is computed by the Gen[l] at 30 miles.

By another resolution, Com̃iss[rs] are to be app[d] to survey the ground for a canal between the waters of Elizabeth river and those of N. Carolina, and in case the best course for such a canal shall require the concurrence of that State, to concert a joint plan and report the same to the next Session of Assembly. Besides the trade which will flow thro' this channel from North Carolina to Norfolk the large district of Virginia watered by the Roanoak will be doubled in its value by it.

An Act vesting in G. Washington a certain interest in the Companies for opening James & Potowmac rivers.

The Treasurer is by this act directed to subscribe 50 shares in the Potowmac & 100 shares in the James River Companies which shall vest in Gen[l] Washington & his heirs. This mode of adding some substantial to the many honorary rewards bestowed on him was deemed least injurious to his delicacy, as well as least dangerous as a precedent. It was substituted in place of a direct pension urged on the House by the indiscreet zeal of some of his friends. Though it will not be an equivalent succour in all respects it will save the General from subscriptions which would have oppressed his finances; and if the schemes be executed

within the period fixed, may yield a revenue for some years before the term of his [sic]. At all events it will demonstrate the grateful wishes of his Country and will promote the object which he has so much at heart. The earnestness with which he espouses the undertaking is hardly to be described, and shews that a mind like his, capable of great views & which has long been occupied with them, cannot bear a vacancy; and surely he could not have chosen an occupation more worthy of succeeding to that of establishing the political rights of his Country, than the patronage of works for the extensive & lasting improvement of its natural advantages; works which will double the value of half the lands within the Commonwealth, will extend its commerce, link with its interests those of the Western States, and lessen the emigration of its Citizens by enhancing the profitableness of situations which they now desert in search of better.

An Act to discharge the people of this Commonwealth from one half of the tax for the year 1775 [85].

Our successive postponements had thrown the whole tax of 1784 on the year 1785. The remission therefore still leaves three halves to be collected. The plentiful crops on hand both of corn & tob°, and the price of the latter which is vibrating on this river between 36/. & 40/. seem to enable the Country to bear the burden. A few more plentiful years with steadiness in our Councils will put our credit on a decent footing. The payments from this State to the Continental treasury between Ap.l, 83, and Nov.r, 84, amount to £123,202 11*s*. 1½,

Vª Currʸ. The printed report herewith inclosed will give you a rude idea of our finances.

An Act giving James Rumsey the exclusive privilege of constructing & navigating certain boats for a limited time.

J. Rumsey by a memorial to the last Session represented that he had invented a mechanism, by which a boat might be worked with little labour at the rate of from 25 to 40 miles a day, against a stream running at the rate of 10 miles an hour, and prayed that the disclosure of his invention might be purchased by the public. The apparent extravagance of his pretensions brought a ridicule upon them, and nothing was done. In the recess of the Assembly, he exemplified his machinery to General Washington and a few other gentlemen, who gave a certificate of the reality & importance of the invention, which opened the ears of the Assembly to a second memorial. The Act gives a monopoly for ten years, reserving a right to abolish it at any time by paying £10,000. The inventor is soliciting similar Acts from other States, and will not I suppose publish the secret till he either obtains or despairs of them.

An act for punishing certain offences injurious to the tranquility of this Commonwealth.

This act authorises yᵉ surrender of a Citizen to a foreign Sovereign within whose acknowledged jurisdiction the citizen shall commit a crime, of wᶜʰ satisfactory proof shall be exhibited to Congress, and for which in the judgment of Congress the law of nations exacts such surrender. This measure was suggested by the danger of our being speedily embroiled with the nations contiguous to the U. States,

particularly the Spaniards, by the licentious & predatory spirit of some of our Western people. In several instances gross outrages are said to have been already practiced. The measure was warmly patronized by Mr. Henry and most of the forensic members, and no less warmly opposed by the Speaker and some others. The opponents contended that such surrenders were unknown to the law of nations, and were interdicted by our declaration of Rights. Vattel however is express as to the case of Robbers, murderers and incendiaries. Grotius quotes various instances in which great offenders have been given up by their proper Sovereigns to be punished by the offended Sovereigns. Puffendorf only refers to Grotius. I have had no opportunity of consulting other authorities. With regard to the bill of rights, it was alleged to be no more or rather less violated by considering crimes committed agst other laws as not falling under the notice of our own, and sending our Citizens to be tried where the cause of trial arose, than to try them under our own laws without a jury of the vicinage, and without being confronted with their accusers or witnesses; as must be the case, if they be tried at all for such offences under our own laws. And to say that such offenders could neither be given up for punishment, nor be punished within their own Country, would amount to a licence for every aggression, and would sacrifice the peace of the whole community to the impunity of the worst members of it. The necessity of a qualified interpretation of the bill of rights was also inferred from the

law of the Confederacy which requires the surrender of our Citizens to the laws of other States, in cases of treason, felony or other high misdemesnors. The Act provides however for a domestic trial in cases where a surrender may not be justified or insisted upon, and in cases of aggressions on the Indians.

An act for incorporating the Protestant Episcopal Church.

This act declares the Ministers & vestries who are to be triennially chosen in each parish a body corporate, enables them to hold property not exceeding the value of £800 per annum, and gives sanction to a Convention which is to be composed of the Clergy and a lay deputy from each parish, and is to regulate the affairs of the Church. It was understood by the House of Delegates that the Convention was to consist of two laymen for each clergyman, and an amendment was received for that express purpose. It so happened that the insertion of the amendment did not produce that effect, and the mistake was never discovered till the bill had passed and was in print. Another circumstance still more singular is that the act is so construed as to deprive the Vestries of the uncontrouled right of electing Clergymen, unless it be referred to them by the canons of the Convention, and that this usurpation actually escaped the eye both of the friends and adversaries of the measure, both parties taking the contrary for granted throughout the whole progress of it. The former as well as the latter appear now to be dissatisfied with what has been done, and will probably concur in a revision if not a repeal of the law. Independently of these

oversights the law is in various points of view exceptionable. But the necessity of some sort of incorporation for the purpose of holding & managing the property of the Church could not well be denied, nor a more harmless modification of it now obtained. A negative of the bill too would have doubled the eagerness and the pretexts for a much greater evil, a general Assessment, which, there is good ground to believe was parried by this partial gratification of its warmest votaries. A Resolution for a legal provision for the "teachers of the Christian Religion" had early in the Session been proposed by Mr. Henry, and in spite of all the opposition that could be mustered, carried by 47 agst 32 votes. Many Petitions from below the blue ridge had prayed for such a law; and though several from the presbyterian laity beyond it were in a contrary stile, the Clergy of that Sect favored it. The other Sects seemed to be passive. The Resolution lay some weeks before a bill was brought in, and the bill some weeks before it was called for, after the passage of the incorporating act it was taken up, and on the third reading, ordered by a small majority to be printed for consideration. The bill, in its present dress proposes a tax of blank per C^{t} on all taxable property for support of Teachers of the Christian Religion. Each person when he pays his tax is to name the society to which he dedicates it, and in case of refusal to do so, the tax is to be applied to the maintenance of a school in the County. As the bill stood for some time, the application in such cases was to be made by the Legislature

to pious uses. In a committee of the whole it was determined by a majority of 7 or 8 that the word "Xn" should be exchanged for the word "Religious." On the report to the House the [1]*pathetic zeal of the late Governor Harrison* gained a like majority for reinstating discrimination. Should the bill pass into a law in its present form it may & will be easily eluded. It is chiefly obnoxious on account of its dishonorable principle and dangerous tendency.

The subject of the British debts underwent a reconsideration on the motion of Mr. Jones. Though no answer had been recd from Congress to the Resolutions passed at the last Session, a material change had evidently taken place in the mind of the Assembly, proceeding in part from a more dispassionate view of the question, in part from the intervening exchange of the ratifications of the Treaty. [1]*Mr. Henry was out of the way.* His previous conversation I have been told, *favored the reconsideration; the Speaker*, the other *champion* at the last Session *against the Treaty*, was at least half *a proselight.* The proposition rejected interest during the period of blank and left the periods of payment blank. In this form it was recd with little opposition and by a very great majority. After much discussion & several nice divisions the first blank was filled up with the period between the 19 of Apl, 1775, and the 3 of March 1783, the commencement and cessation of hostilities; and the second with seven annual

[1] Cypher represented by italics.

payments. Whilst the bill was depending, some proceedings of the Glasgow merchants were submitted to the H. of D. in which they signified their readiness to receive their debts in four annual payments, with immediate security and summary recoveries at the successive periods and were silent as to the point of interest. Shortly after were presented memorials from the Merchants of this Town & Petersburg representing the advantage which a compliance with the Glasgow overtures would give the foreign over the domestic creditors. Very little attention seemed to be paid by the House to the overtures, tho', as the Treaty was not to be literally pursued, the shadow of assent from the other party was worthy of being attended to. In the Senate the bill met with a diversity of opinions. By a majority of one voice only an attempt to put all our domestic debts on the same footing with British debts was lost. Whether this was sincere or a side blow at the bill I am unable to say. An attempt was next made to put on the same footing all those who left this Country and joined the other side, or who remained within the British territories for one year at any time since the 19 Ap^{l}, 1775, or who refused a tender of paper money before Jan^{y}, 1779. These discriminations were almost unanimously disagreed to by the H. of D. The Senate insisted. The former proposed a conference. The Senate concurred. The Conference produced a proposition from the H. of D. to which the Senate assented; but before the assent was notified an incident happened which has left the bill in a very singular situation.

The delays attending this measure had spun it out to the day preceding the one prefixed for a final adjournment. Several of the members went over to Manchester in the evening, with an intention it is to be presumed of returning the next morning. The severity of the night rendered their passage back the next morning impossible. Without them there was no house. The impatience of the members was such as might be supposed. Some were for stigmatizing the absentees and adjourning. The rest were some for one thing, some for another. At length it was agreed to wait until the next day. The next day presented the same obstructions in the river. A canoe was sent over for enquiry by the Manchester party, but they did not chuse to venture themselves. The impatience increased, warm resolutions were agitated. They ended however in an agreement to wait one day more. On the morning of the third day the prospect remained the same. Patience could hold out no longer and an adjournment to the last day of March ensued. The question to be decided is whether a bill which has passed the House of Delegates, and been assented to by the Senate; but not sent down to the H. of D., nor enrolled, nor examined, nor signed by the two Speakers and consequently not of record, is or is not a law? A bill for the better regulation of the customs is in the same situation.

After the passage of the Bill for British debts through the H. of D. a bill was introduced for liquidating the depreciated payments into the Treasury, and making the debtors liable for the deficiency. A

foresight of this consequential step had shewn itself in every stage of the first bill. It was opposed by [1] *Governor Harrison principally* and laid asleep by the refusal of interested members to vote on the question, and the want of a quorum without them.

Among the abortive measures may be mentioned also a proposition to authorise the collection of the impost by Congress as soon as the concurrence of twelve States should be obtained. Connecticut had set the example in this project. The proposition was made by the Speaker & supported by the late Governor. It was disagreed to by a very large majority on the following grounds 1 the appearance of a schism in the Confederacy which it would present to foreign eyes. 2. its tendency to combinations of smaller majorities of the States. 3. the channel it would open for smuggling; goods imported into Rhode Island in such case might not only be spread by land through the adjacent States, but if slipped into any neighbouring port might thence be carried duty-free to any part of the associated States. 4. the greater improbability of a union of twelve States on such new ground, than of the conversion of Rhode Island to the old one. 5 the want of harmony among the other States which would be betrayed by the miscarriage of such an experiment, and the fresh triumph & obstinacy which Rhode Island would derive from it.

The French vice Consul in this State has complained to the Assembly that the want of legal power

[1] Italics for cypher.

over our Sheriffs, Goalers & prisons, both renders his decrees nugatory, and exposes his person to insults from dissatisfied litigants. The Assembly have taken no step whatever on the subject being at a loss to know what ought to be done, in compliance either with general usage or that of France in particular. I have often wondered that the proposed Convention between France and the U. S. for regulating the consular functions has never been executed. The delay may prove unfriendly both to their mutual harmony & their commerce.

Mr. Henry was elected successor to Mr. Harrison without competition or opposition. The victims to the article requiring a triennial removal of two Counsellors were Merrywether Smith & General Christian. Young Mr. Roane and Mr. Miles Selden take their places. Mr. Short's place is filled by Mr. Joseph Jones.

Nothing has passed during the session concerning an amendment of the State Constitution. The friends of the undertaking seem to be multiplying rather than decreasing. Several Petitions from the Western side of the Blue ridge appeared in favor of it; as did some from the Western side of the Alleghany praying for a separate Government. The latter may be considered all of them as the children of A. C's ambition. The Assize Courts and the opening of our Rivers are the best answers to them.

The Revisal has but just issued from the press. It consists of near 100 folio pages in a small type. I shall send you six copies by the first opportunity.

£500 was voted at the Spring Session to each of the Acting members of the Committee, but no fund having been provided for payment, no use could be made of the warrants. I drew yours however & carried them up to Orange, where they now lye. A vote of this Session has provided a fund which gives them immediate value. As soon as I get home I shall send the dead warrants to Mr Nich^s^ Lewis, who may exchange them for others, and draw the money from the Treasury. Mr. Peter Carr is I hear now in Williamsburg, he did not get there so soon as I expected, but I have not heard the circumstances which delayed him. On the best enquiries I could make for a stand for his younger brother I could hear of none preferable to the Academy in Prince Edward, and accordingly recommended that in a letter to Mrs. Carr. I have rec'd no answer, but am told by Mr. Underwood her neighbour that he is at school with a very proper man who has lately opened a school very convenient to Mrs. Carr. If this is the case it will be improper to remove him.

I have not yet had the pleasure of a line from you since you left Boston, nor do I know when I shall next find a subject for another to you. As soon as I do you may be assured that you shall hear from me & that I am in the meantime with sincerest friendship

Yrs J. MADISON JR.

Present my respects to Miss Patsy & Mr. Short.

TO MARQUIS DE LAFAYETTE. MAD. MSS.

ORANGE, March 20th, 1785.

MY DEAR SIR,—Your favour of the 15th, continued on the 17th of December came very slowly but finally safe to hand. The warm expressions of regard which it contains are extremely flattering to me; and the more so as they so entirely correspond with my own wishes for everything which may enter into your happiness.

You have not erred in supposing me out of the number of those who have relaxed their anxiety concerning the navigation of the Mississippi. If there be any who really look on the use of that river, as an object not to be sought or desired by the United States I cannot but think they frame their policy on both very narrow and very delusive foundations. It is true, if the States which are to be established on the waters of the Mississippi, were to be viewed in the same relation to the Atlantic States, as exists between the heterogeneous and hostile Societies of Europe, it might not appear strange that a distinction or even an opposition of interests should be set up. But is it true that they can be viewed in such a relation? Will the settlements which are beginning to take place on the branches of the Mississippi be so many distinct societies, or only an expansion of the same society? so many new bodies or merely the growth of the old one? Will they consist of a hostile or a foreign people, or will they not be bone of our bones and flesh of our flesh? Besides the confederal band, within

which they will be comprehended, how much will the connection be strengthened by the ties of friendship, of marriage and consanguinity? ties which it may be remarked, will be even more numerous between the ultramontane and the Atlantic States than between any two of the latter. But viewing this subject through the medium least favorable to my ideas, it still presents to the U. States sufficient inducements to insist on the navigation of the Mississippi. Upon this navigation depends essentially the value of that vast field of territory which is to be sold for the benefit of the common Treasury; and upon the value of this territory when settled will depend the portion of the public burdens of which the old States will be relieved by the new. Add to this the stake which a considerable proportion of those who remain in the old States will acquire in the new by adventures in land either on their own immediate account or that of their descendants.

Nature has given the use of the Mississippi to those who may settle on its waters, as she gave to the United States their independence. The impolicy of Spain may retard the former as that of G. Britain did the latter. But as G. B. could not defeat the latter, neither will Spain the former. Nature seems on all sides to be reasserting those rights which have so long been trampled on by tyranny & bigotry. Philosophy & Commerce are the auxiliaries to whom she is indebted for her triumphs. Will it be presumptuous to say that those nations will shew most wisdom as well as acquire most glory, who instead of forcing her

current into artificial channels, endeavour to ascertain its tendency and to anticipate its effects. If the United States were to become parties to the occlusion of the Mississippi they would be guilty of treason against the very laws under which they obtained & hold their national existence.

The repugnance of Spain to an amicable regulation of the Use of the Mississippi, is the natural offspring of a System, which everybody but herself has long seen to be as destructive to her interest as it is dishonorable to her character. An extensive desart seems to have greater charms in her eye than a flourishing but limited empire, nay than an extensive flourishing empire. Humanity cannot suppress the wish that some of those gifts which she abuses were placed by just means in hands that would turn them to a wiser account. What a metamorphosis w^{d} the liberal policy of France work in a little time on the Island of N. Orleans? It would to her be a fund of as much real wealth as Potosi has been of imaginary wealth to Spain. It would become the Grand Cairo of the new World.

The folly of Spain is not less displayed in the means she employs than in the ends she prefers. She is afraid of the growth and neighbourhood of the U. States, because it may endanger the tranquility of her American possessions; and to obviate this danger she proposes to shut up the Mississippi. If her prudence bore any proportion to her jealousy she would see, that if the experiment were to succeed, it would only double the power of the U. States to disturb her,

at the same time that it provoked a disposition to exert it; she would see that the only offensive weapon which can render the U. States truly formidable to her is a navy, and that if she could keep their inhabitants from crossing the Appalachian ridge, she would only drive to the Sea most of those swarms which would otherwise direct their course to the Western Wilderness. She should reflect too that as it was impossible for her to destroy the power which she dreads, she ought only to consult the means of preventing a future exertion of it. What are those means? Two & two only. The first is a speedy concurrence in such a treaty with the U. S. as will produce a harmony, & remove all pretexts for interrupting it. The second, which would in fact result from the first, consists in favouring the extension of their settlements. As these become extended the members of the Confederacy must be multiplied, and along with them the Wills which are to direct the machine. And as the wills multiply, so will the chances against a dangerous union of them. We experience every day the difficulty of drawing thirteen States into the same plans. Let the number be doubled & so will the difficulty. In the multitude of our Counsellors, Spain may be told, lies her safety.

If the temper of Spain be unfriendly to the views of the U. States, they may certainly calculate on the favorable sentiments of the other powers of Europe, at least of all such of them as favored our Independence. The chief advantages expected in Europe from that event center in the revolution it was to

produce in the commerce between the new & the old World. The commerce of the U. S. is advantageous to Europe in two respects, first by the unmanufactured produce which they export; secondly by the manufactured imports which they consume. Shut up the Mississippi and discourage the settlements on its waters, and what will be the consequence? First, a greater quantity of subsistence must be raised within the ancient settlements, the culture of tobacco indigo & other articles for exportation, be proportionably diminished, and their price proportionably raised on the European consumer. Secondly the hands without land at home being discouraged from seeking it where alone it could be found, must be turned in a great degree to manufacturing, our imports proportionably diminished, and a proportional loss fall on the European Manufacturer. Establish the freedom of the Mississippi, and let our emigrations have free course, and how favorably for Europe will the consequence be reversed. First the culture of every article for exportation will be extended, and the price reduced in favor of her consumers. Secondly, Our people will increase without an increase of our Manufacturers, and in the same proportion will be increased the employment & profit of hers.

These consequences would affect France in common with the other commercial nations of Europe; but there are additional motives which promise the U. States her friendly wishes and offices. Not to dwell on the philanthropy which reigns in the heart of her Monarch and which has already adorned his

head with a crown of laurels, he cannot be inattentive to the situation into which a controversy between his antient and new Allies would throw him, nor to the use which would be made of it by his watchful adversary. Will not all his councils then be employed to prevent this Controversy? will it not be seen that as the pretensions of the parties directly interfere, it can be prevented only by a dissuasive interposition on one side or the other, that on the side of the U. S. such an interposition must, from the nature of things be unavailing; or if their pretensions for a moment be lulled they w^d^ but awake with fresh energy, and consequently that the mediating influence of France ought to be turned wholly on the side of Spain. The influence of the French Court over that of Spain is known to be great. In America it is supposed to be greater than perhaps it really is. The same may be said of the intimacy of the union between the two nations. If this influence should not be exerted, this intimacy may appear to be the cause. The United States consider Spain as the only favorite of their Ally of whom they have ground to be jealous, and whilst France continues to hold the first place in their affections they must at least be mortified at any appearance that the predilection may not be reciprocal.

The Mississippi has drawn me into such length that I fear you will have little patience left for anything else. I will spare it as much as possible. I hear nothing from Congress except that Mr. Jay has accepted his app^t^ and that no success^r^ has yet been chosen to Dr Franklyn. Our Legislature made a

decent provision for remittances due for 1785 from Virginia to the Treas^{y} of the U. S. and very extensive provision for opening our inland navigation. * * *[1] Whether they passed an act for paying British debts or not they do not know themselves. Before the bill for that purpose had got through the last usual forms, the want of members broke up the House. It remains therefore in a situation which has no precedent, & without a precedent lawyers & legislators are as much at a loss as a mariner without his compass.

The subjects in which you interested yourself were all referred to the Executive with power to do what I hope they will do better than the Assembly. I understood before I left Richm^{d} that you w^{d} receive officially from the Govr a copy of the Resolutions which I sent you. I rec^{d} a letter a few days ago from Mr. Mercer, written in the bosom of wedlock at Mr. Sprigg's; another at the same time from Monroe, who was well at New York. I have nothing to say of myself but that I have exchanged Richmond for Orange, as you will have seen by the above date; that I enjoy a satisfactory share of health; that I spend the chief of my time in reading, & the chief of my reading, on Law; that I shall hear with the greatest pleasure of your being far better employed; & that I am, with most affec^{t}

Y^{r} Obed^{t} friend & Servt

[1] This passage briefly recounts the acts passed by the Legislature.

TO JAMES MONROE. MAD. MSS.

ORANGE March 21, 1785.

DEAR SIR,—Your favor of the 1st of Febr did not come to hand till a day or two ago, having travelled on to Richmond, remained there during the absence of Mr. Jones & on his return, been sent to me by way of Fredg. Before I left Richmond I wrote you that the Assembly had adjourned and requested that your subsequent letters might be addressed to Orange, and if I do not forget to care of Mr Maury at Frederickbg. This letter ought to have reached you before the date of yours. I hope it has since got to hand. I also forwarded from Richmond to your care a letter for Mr Jefferson which I hope has not miscarried. It contained a rehersal of our last legislative politics & proceedings, which I find by his letters to me are a material object of his curiosity. I shall be glad to know by your next whether you have ever recd it, that in case of miscarriage I may endeavor to supply the loss.

I do not wonder at the paragraph which you have copied from Mr. Jay's letter to Congress. His feelings are such as every one must possess who is worthy of the station which he holds. If the Office of foreign Affairs be a proper one & properly filled, a reference of all foreign despatches to it in the first instance, is so obvious a course, that any other disposition of them by Congress seems to condemn their own establishment, to affront the Minister in office, and to put on him a label of caution agst that respect & confidence of the Ministers of foreign powers, which are

essential to his usefulness. I have always conceived the several ministerial departments of Congress, to be provisions for aiding their Counsels as well as executing their resolutions, & that consequently whilst they retain the right of rejecting the advice which may come from either of them, they ought not to renounce the opportunity of makᵍ use of it. The foreign department is I am sensible, in several respects the most difficult to be regulated, but I cannot think the question arising on Mr. Jay's letter is to be numbered among the difficulties. The practice of Congress during the administration of his predecessor was never fixed, & frequently improper, and I always suspected that his indifference to the place resulted in part at least from the mortifications to which this unsteadiness subjected him.

You will not be disappointed at the barrenness which is hence to mark the correspondence on my part. In the recess of the Legislature, few occurrences happen which can be interesting, and in my retired situation, few even of these fall within my knowledge. The situation of Mr. Jones will probably make his correspondence a more productive one. He has probably already mentioned to you the advances which Kentucky was said to be making towards an independent Govᵗ. It is certain that a Convention has been held, which might have been set on foot with an eye to such an event; but I learn from an intelligent person lately from that district, that its deliberations turned altogether on the pressure of certain acts of the General Assembly, & terminated in a vote of

application for redress. He supposes however that the late extension of the tax on patents will give a successful handle to those who wish to accelerate a separation. This tax as it stood before was in the first class of their grievances.

You will I expect receive this from the hands of Mr. Burnley, a young gentleman of my neighborhood, who has passed with reputation through Mr. Wythe's School & has since taken out his forensic diploma. Your civilities to him will be well placed & will confer an obligation on me. If Col. Grayson has recovered from the gout which I hear arrested him in the moment of his intended departure, and is with you, be so kind as to make my best respects to him.

I am Dear Sir with sincere regard & esteem

Your obed^{t} friend & servant,

JAMES MONROE MAD. MSS.

ORANGE April 12 1785.

DEAR SIR,—I wrote you not long since by a young gentleman who proposed to go as far as N. Y. acknowledging the rec^{t} of your favor of Feby 1st I have since rec^{d} that of March which I meant to have acknowledged through the same hands. But finding that ye delays which have hitherto kept back the bearer above referred to, are of uncertain continuance, & having no certain conveyance to Fred^{g} I embrace an opportunity of sending this to Richmond, whence it will be forwarded by Mr. Jones in the mail.

The appointment of Mr. A. to the Court of G. B.

is a circumstance which does not contradict my expectations; nor can I say that it displeases me. Upon Geographical considerations N. E. will always have one of the principal appointm^ts^, and I know of no individual from that quarter, who possesses more of their confidence, or would possess more of that of the other States; nor do I think him so well fitted for any Court of equal rank, as that of London, I hope it has removed all obstacles to the establishment of Mr. Jefferson at the Court of France. Will not Congress soon take up the subject of Consular arrangements? I should suppose them at least of equal moment at present with some of ye higher appointm^ts^ which are likely to occupy them. Our friend Mr. Maury is waiting with a very inconvenient suspension of his other plans, the event of the offer he has made of his services.[1] I find he considers Ireland as the Station next to be desired after that of England. He conceives & I believe very justly that the commercial intercourse between that Country & this will be very considerable, and merits our particular cultivation. I suppose from your silence on the subject, that the Western posts are still in the hands of G. B. Has the subject of the vacant lands to be disposed of, been revived? what other measures are on foot or in contemplation for paying off the public debts? What paym^ts^ have been made of late into the public Treasury? It is said here that Mass^ts^ is taking measures for urging R. I into the Impost, or rendering the

[1]James Maury. He was appointed Consul at Liverpool, where he acted as Madison's agent in selling his tobacco for many years.

Scheme practicable without her concurrence. Is it so? How many of the States have agreed to change the 8th Art of ye Confederation? The Legislature of this State passed a law for complying with the provisional act of Congs for executing that article as it now stands, the operation of which confirms the necessity of changing the article. The law requires as the Act of Congs does among other things a list of the Houses. If ye list does not discriminate the several kinds of Houses, how can Congs collect from it ye value of the *improvements*, how do justice to all their constituents? And how can a discrimination be made in this country, where the variety is so infinite & so unsusceptible of description? If Congs govern themselves by number alone, this Country will certainly appeal to a more accurate mode of carrying the present rule of the confederation into practice. The average value of the improvements in Virga is not $\frac{1}{4}$ perhaps not $\frac{1}{10}$ of that of ye improvements in Penas or N. Engd. Compare this difference with ye proportion between the value of Improvemts & that of the Soil, & what an immense loss shall we be taxed with? The number of buildings will not be a less unjust rule than the number of acres, for estimating the respective abilities of the States.

The only proceeding of the late Session of Assembly which makes a noise thro' the Country is that which relates to a Genl Assessmt. The Episcopal people are generally for it, tho' I think the zeal of some of them has cooled. The laity of the other sects are equally unanimous on the other side. So are all

the Clergy except the Presbyterian who seem as ready to set up an establishm[t] which is to take them in as they were to pull down that which shut them out. I do not know a more shameful contrast than might be found between their memorials on the latter & former occasion.

In one of your letters rec[d] before I left Richmond you expressed a wish for a better Cypher. Since my return to Orange I have been able to get one made out which will answer every purpose. I will either enclose it herewith or send it by the Gentleman who is already charged with a letter for you. I wish much to throw our correspondence into a more regular course. I would write regularly every week if I had a regular conveyance to Fred[g]. As it is I will write as often as I can find conveyances. The business of this neighborhood which used to go to Fredericksburg is in a great measure turned towards Richm[d], which is too circuitous a channel. Opportunities in every direction however will be henceforward multiplied by the advance of the Season. If you are not afraid of too much loading the mail I could wish you to enclose in your letters the last N. Y. or Phil[a] paper.

I am D[r] Sir Y[rs] most sincerely.

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE April 27 1785.

DEAR SIR,—I have recd. your two favors of Nov[r] 11 & Dec[r] 8. Along with the former I recd. the two pamphlets on animal magnetism & the last aeronautic

expedition, together with the phosphoretic matches. These articles were a great treat to my curiosity. As I had left Richm[d] before they were brought thither by Col. le Maire, I had no opportunity of attending myself to your wishes with regard to him; but I wrote immediately to Mr. Jones & desired him to watch over the necessities of le Maire. He wrote me for answer that the Executive tho' without regular proof of his claims were so well satisfied from circumstances of the justice of them, that they had voted him £150 for his relief till the Assembly could take the whole into consideration. This information has made me easy on the subject though I have not withdrawn from the hands of Mr. Jones the provisional resource. I thank you much for your attention to my literary wants. All the purchases you have made for me, are such as I should have made for myself with the same opportunities. You will oblige me by adding to them the Dictionary in 13 vol. 4° by Felice & others, also de Thou in French. If the utility of Moreri be not superseded by some better work I should be glad to have him too. I am afraid if I were to attempt a catalogue of my wants I should not only trouble you beyond measure, but exceed the limits which other considerations ought to prescribe to me. I cannot however abridge the Commission you were so kind as to take on yourself in a former letter, of procuring me from time to time such books as may be either "old & curious or new & useful." Under this description will fall those particularized in my former letters, to wit: treatises on the ancient or

modern fœderal republics—on the law of Nations—and the history natural & political of the New World; to which I will add such of the Greek & Roman authors where they can be got very cheap, as are worth having and are not on the common list of School classics. Other books which particularly occur are the translation (French) of the Historians of the Roman Empire during its decline, by —— Pascal's Provincial letters—Don Ulloa in the Original — Linnæus best edition Ordinances Marines—Collection of Tracts in french on the Oeconomics of different nations, I forget the full title. It is much referred to by Smith on the wealth of Nations. I am told a Monsr Amelot has lately published his travels into China, which if they have any merit must be very entertaining. Of Buffon I have his original work of 31 vol. 10 vol. of Supplem^{t}, and 16 vol. on birds. I shall be glad of the continuation as it may from time to time be published. I am so pleased with the new invented lamp that I shall not grudge two guineas for one of them. I have seen a pocket compass of somewhat larger diameter than a watch & which may be carried in the same way. It has a spring for stopping the vibration of the needle when not in use. One of these would be very convenient in case of a ramble into the Western country. In my walks for exercise or amusements, objects frequently present themselves, which it might be matter of curiosity to inspect, but which it is difficult or impossible to approach. A portable Glass would consequently be a source of many little gratifications. I

have fancied that such an one might be fitted into a cane without making it too heavy. On the outside of the tube might be engraved a scale of inches &c. If such a project could be executed for a few Guineas, I should be willing to submit to the price; if not, the best substitute I suppose, will be a pocket telescope, composed of several tubes so constructed as to slide the lesser into the greater. I should feel great remorse at troubling you with so many requests, if your kind & repeated offers did not stifle it in some measure. Your proposal for my replacing here advances for me without regard to the exchange is liable to no objection except that it will probably be too unequal in my favour. I beg that you will enable me as much as you can to keep these little matters balanced. The papers from Le Grand were sent as soon as I got them to Mr. Jones with a request that he would make the use of them which you wished me to do.

Your remarks on the tax on transfers of land in a general view appear to me to be just but there were two circumstances which gave a peculiarity to the case in which our law adopted it. One was that the tax will fall much on those who are evading their quotas of other taxes by removing to Georgia & Kentucky; the other that as such transfers are more frequent among those who do not remove, in the Western than the Eastern part of the Country, it will fall heaviest where direct taxes are least collected. With regard to the tax in general on law proceedings, it cannot perhaps be justified if tried by the strict rule

which proportions the quota of every man to his ability, time however will gradually in some measure equalize it, & if it be applied to ye support of the Judiciary establishment, as was the ultimate view of the periods of the tax, it seems to square very well with the Theory of taxation.

The people of Kentucky had lately a Convention which it was expected would be the mother of a separation. I am informed they proceeded no farther than to concert an Address to the Legislature on some points in which they think the laws bear unequally upon them, they will be ripe for that event at least as soon as their interest calls for it. There is no danger of a concert between them & the Counties West of the Alleghany which we mean to retain. If the latter embark in a scheme for independence it will be on their own bottom. They are more disunited in every respect from Kentucky than from Virginia.

I have not learnt with certainty whether Gen[l] Washington will accept or decline the shares voted him by the Assembly in the Companies for opening our rivers. If he does not chuse to take to himself any benefit from the donation, he has I think a fine opportunity at once of testifying his disinterested purposes, of shewing his respect for the Assembly, and of rendering a service to his Country. He may accept the gift so far as to apply it to the scheme of opening the rivers & may then appropriate the revenue which it is hereafter to produce to some patriotic establishment. I lately dropped a hint of this sort to one of his friends & was told that such

an idea had been suggested to him. The private subscriptions for Potowmac I hear amount to £10,000 Sterling. I cannot discover that those for James River deserve mention, or that the undertaking is pushed with any spirit. If those who are most interested in it let slip the present opportunity, their folly will probably be severely punished for the want of such another. It is said the undertaking on the Susquehannah by Maryland goes on with great spirit & expectations. I have heard nothing of Rumsey or his boats since he went into the Northern States. If his machinary for stemming ye current operates on the water alone, as is given out, may it not supply the great desiratum for perfecting the Balloons?

I understand that Chase & Jenifer on the part of Maryland, Mason & Henderson on the part of Virginia have had a meeting on the proposition of Virg[a] for settling the navigation & jurisdiction of Potowmac below the falls, & have agreed to report to the two Assemblies, the establishment of a concurrent jurisdiction on that river & Chesapeak. The most amicable spirit is said to have governed the negociation.

The Bill for a Gen[l] Assess[t] has produced some fermentation below the Mountains & a violent one beyond them. The contest at the next Session on this question will be a warm & precarious one. The Port bill will also undergo a fiery trial. I wish the Assize Courts may not partake of the danger. The elections as far as they have come to my knowledge are likely to produce a great proportion of new Members. In Albemarle young Mr. Fry has turned out

Mr. Carter. The late Governor Harrison I hear has been baffled in his own County, but meant to be a Candidate in Surry & in case of a rebuff there to throw another die for the borough of Norfolk. I do not know how he construes the doctrine of residence. [1]*It is surmised* that the *machinations of tyler who fears a rivalship for the chair* are *at the bottom of his difficulties. Arth*r *Lee* is *elected* in *prince William he is said* to have *paved the way by promises* to *overset the port bill* which is *obnoxious* to *dumfries* and to *prevent the removal of the Assize Court* from *this town to Alexandria.*

I recd. a letter from *the marquis fayette*, dated on the *eve of his embarcation* which *has the following paragraph I have much conferred with the General upon the Potowmac system many people think the navigation of the Mississippi is not an advantage but it may be the excess of a very good thing, viz the opening of your rivers. I fancy* it *has not changed your opinion* but *beg you will write me on the* subject *in the meanwhile I hope Congress will act coolly and prudently by Spain who is such a fool that allowances must be made.* It is *unlucky that he should have left America with* such *an idea as to the Miſsipi.* It may be *of the worst consequ*ce *as* it is *not wholly imaginary the* prospect *of extending the commerce of the atlantic states to the western waters having given birth to it.* I can not believe that *many minds are tainted with so illiberal and short-sighted a policy.* I have *thought it not amiss to write the marquis* according to the

[1] Italics for cypher.

request of his letter and *have stated to him the motives and obligations* which must *render the U. S. inflexible* on the subject *of the Missipi, the folly of Spain in contesting it and our expectations from the known influence of France over Spain* and *her friendly dispositions toward* U. S. It is but *justice to the marquis to observe* that *in all our conversations* on *the Missipi he expressed* with every *mark of sincerity a zeal for our claims* and *a pointed dis*like *to the national character and policy of Spain* and that if *his zeal should be found to abate* I should construe it to be the effect *of a supposed* revolution *in the sentiments of America.*

This would have been of somewhat earlier date but I postponed it that I might be able to include some information relative to your Nephews. My last informed you that your eldest was then with Mr. Maury. I was so assured by Mr. Underwood from his neighborhood, who I supposed could not be mistaken. I afterwards discovered that he was so, but could get no precise information till within a few days. One of my brothers being called into that part of Country by business, I wrote to Mrs. Carr and got him to wait on her. The answer with which I have been favored imports that "her eldest son was taken last fall with a fever which with repeated relapses kept him extremely weak & low till about the first of Jany from which time he was detained at home by delays in equipping him for Williamsb^{g} till the 1st of April, when he set out with promises to make up his lost time—that her youngest son had also been detained at home by ill health till very lately, but that he would

certainly go on to the academy as soon as a vacation on hand was over, that his time had not been entirely lost as his brother was capable of instructing him whenever his health would admit." Mr. Maury's School is said to be very flourishing. Mr. Wythe & the other gentlemen of the University have examined it from time to time & published their approbation of of its management. I cannot speak with the same authority as to the Academy in Prince Edward. The information which I have rec^{d} has been favorable to it. In the recommendation of these Seminaries I was much governed by the probable permanency of them; nothing being more ruinous to education than the frequent interruptions & change of masters & methods incident to the private schools of this Country.

Our winter has been full of vicissitudes, but on the whole far from being a severe one, the spring has been uncommonly cold & wet, and vegetation, of course, very backward; till within a few days during which it has been accelerated by very uncommon heat. A pocket Thermometer which stands on the second floor & the N. W. side of the House was on the 24 inst. at 4 O'Clock, at 77°, on the 25, at 78, on the 26, at 81½; to-day, 27, at 82, the Weather during this period has been fair & the wind S, the atmosphere thick N. W. Our Wheat in the ground is very unpromising throughout the Country. the price of that article on tide-water is about 6*s*. Corn sells in this part of the country at 10*s*. & under, below at 15*s*. and where the insect prevailed as high as 20*s*. It is said to have been raised by a demand for exportation.

Tob° is selling on Rappahannock at 32*s*. & Richm^d^ at 37*s* 6. It is generally expected that it will at least get up to 40*s*. Some of our peaches are killed & most of our Cherries. Our Apples are as yet safe. I can not say how it is with the fruit in other parts of the Country. The mischief to the Cherries &c was done on the night of the 20 when we had a severe black frost.

I can not take my leave of you without making my acknowledgem^ts^ for the very friendly invitation contained in your last. If I should ever visit Europe I should wish to do it less stinted in time than your plan proposes. This crisis too would be particularly inconvenient as it would break in upon a course of reading which if I neglect now I shall probably never resume. I have some reason also to suspect that crossing the Sea would be unfriendly to a singular disease of my constitution. The other part of your invitation has the strongest bias of my mind on its side, but my situation is as yet too dependent on circumstances to permit my embracing it absolutely. It gives me great satisfaction to find that you are looking forward to the moment which is to restore you to your native Country, though considerations of a public nature check my wishes that such an event may be expedited. Present my best respects to Mr. Short & Miss Patsy, & accept of the affectionate regards of Dear Sir your sincere friend.

What has become of the subterraneous City discovered in Siberia ?

Deaths. Thompson Mason Bartholomew Dandridge Ryland Randolph Joseph Reed of Philadel^a^.

TO JAMES MONROE. MAD. MSS.

ORANGE Ap^{l} 28, 1785.

DEAR SIR,—I have written several letters within a little time past which were sent to you partly by the post partly by Mr. Burnley, a young Gentleman of this County. In one of the letters I inclosed a cypher, wch will serve all the purposes of our future correspondence. This covers a letter from Mr. Jefferson which you will be so good as to forw^{d} by the first packet or other equally eligible conveyance. Our Elections as far as I hear are likely to produce a great proportion of new members. In some counties they are influenced by the Bill for a Genl Assess^{t}. In Culpeper Mr. Pendleton a worthy man & acceptable in his general character to the people was laid aside in consequence of his vote for the Bill, in favor of an Adversary to it. The Delegates for Albemarle are your friend Mr. W. C. Nicholas & Mr. Fry. Mr. Carter stood a poll but fell into the rear. The late Govr Harrison I am told has been baffled in his own County, meant to be a candidate for Surey & in case of a rebuff there to throw another die for the Borough of Norfolk. I do not know how he proposes to satisfy the doctrine of residence.

I hear frequent complaints of the disorders of our coin & the want of uniformity in the denominations of the States. Do not Congress think of a remedy for these evils? The regulation of weights & measure seem also to call for their attention. Every day will add to the difficulty of executing these works. If a mint be not established & a recoinage effected

while the fœderal debts carry the money thro' the hands of Congress I question much whether their limited powers will ever be able to render this branch of their prerogative effectual. With regard to the regulation of weights & measures, w^{d} it not be highly expedient as well as honorable to the fœderal administration, to pursue the hint which has been suggested by ingenious & philosophical men, to wit, that the standard of measure s be first fixed by the length of a pendulum vibrating seconds at the Equator or any given latitude—& that the standard of weights s^{d} be a Cubical piece of Gold or other homogeneous body, of dimensions fixed by the standard of measure. Such a scheme appears to be easily reducible to practice; & as it is founded on the division of time which is the same at all times & in all places & proceeds on other data which are equally so, it would not only secure a perpetual uniformity throughout the U. S. but might lead to Universal standards in these matters among nations. Next to the inconveniency of speaking different languages, is that of using different & arbitrary weights & measures.

I am Dr Sir Y^{r} affec^{e} friend.

TO JAMES MONROE. MAD. MSS.

ORANGE May 29 1785.

DEAR SIR,—Your favor of May — came to hand a few days ago. It is fortunate that the variant ideas have been so easily accomodated touching the mode of surveying & selling the territorial fund. It will be

equally so I think if you can dispossess the British of the Western posts before the land office is opened. On this event and the navigation of the Mississippi will much depend the fiscal importance of the back Country to the U. States. The amount of the proposed requisition will I fear startle those to whom it will be addressed. The use of certificates as a medium for discharging the interest of the home debt is a great evil, though I suppose a necessary one. The advantage it gives to Sharpers & Collectors, can scarcely be described, and what is more noxious, it provokes violations of public faith, more than the weight of the Burden itself. The 1,000,000 D^{rs} to be paid in specie, and the greatest part of it to be sent abroad, will equally try the virtue of the States. If they do not flinch however they will have the satisfaction of coming out of the trial with more honour though with less money.

I have lately heard that the Kentucky Delegates will be instructed to propose to the next Session the separation of that Country from this, and its being handed over to Congress for admission into the Confederacy. If they pursue their object through this channel, they will not only accomplish it without difficulty, but set a useful example to other Western settlem^{ts} which may chuse to be lopped off from other States. My information as to this matter is not authentic, but such as I am inclined to believe true. I hear also that a State is actually set up in the back Country of N. C. that it is organized, named, and has deputed representatives to Congress.

It gives me much pleasure to observe by 2 printed reports sent me by Col. Grayson that, in the latter Cong[s] had expunged a clause contained in the first for setting apart a district of land in each Township for supporting the Religion of the majority of inhabitants. How a regulation so unjust in itself, so foreign to the Authority of Cong[s], so hurtful to the sale of the public land, and smelling so strongly of an antiquated Bigotry, could have received the countenance of a Comtee is truly matter of astonishment. In one view it might have been no disadvantage to this State in case the Gen[l] Assess[t] should take place, as it would have given a repellent quality to the new Country in the estimation of those whom our own encroachments on Religious Liberty would be calculated to banish to it. But the adversaries to the assess[t] begin to think the prospect here flattering to their wishes. The printed Bill has excited great discussion and is likely to prove the sense of the Comunity to be in favor of the liberty now enjoyed. I have heard of several Counties where the late representatives have been laid aside for voting for the Bill, and not of a single one where the reverse has happened. The Presbyterian Clergy too who were in general friends to the scheme, are already in another tone, either compelled by the laity of that sect, or alarmed at the probability of further interferences of the Legislature, if they once begin to dictate in matters of Religion.

I am, D[r] Sir, Y[rs] affec[ly].

The letter herewith inclosed is from Mrs. Carr sister of Mr. Jefferson.

TO JAMES MONROE. MAD. MSS.

ORANGE 21 June 1785.

DEAR SIR,—Finding from a letter of Mr. Mazzei that you have never been furnished with a copy of the Bill for establishing the Christian Religion in this State, I now inclose one, regretting that I had taken it for granted that you must have been supplied thro' some other channel. A very warm opposition will be made to this innovation by the people of the middle and back Counties, particularly the latter. They do not scruple to declare it an alarming usurpation on their fundamental rights and that tho' the Gen[l] Assembly should give it the form, they will not give it the validity of a law. If there be any limitation to the power of the Legislature, particularly if this limitation is to be sought in our Declaration of Rights or Form of Government, I own the Bill appears to me to warrant this language of the people.

A gentleman of credit lately from Kentucky tells me that he fell in with two persons on the Ohio, who were going down the River in the character of Com[issrs] from Georgia, authorized to demand from the Spanish Gov[r] of N. Orleans, the posts within the limits of that State, and a settlement of the boundary in general between it and the Spanish possessions. The Gentleman did not see their commission, but entertains no doubt of their having one. He was informed that two others were joined in it who had taken a different route. Should there be no mistake in this case, you will no doubt be able to get a full account of the Embassy. I would willingly suppose

that no State could be guilty either of so flagrant an outrage on the fœderal Constitution, or of so imprudent a mode of pursuing their claims against a foreign Nation.

I observe in a late Newspaper that the comercial discontents of Boston are spreading to New York and Philad[a]. Whether they will reach Virginia or not I am unable to say. If they should, they must proceed from a different interest; from that of the planters, not that of the Merchants. The present system here is as favorable to the latter as it is ruinous to the former. Our trade was never more compleatly monopolized by G. B., when it was under the direction of the British Parliament than it is at this moment. But as our Merchants are almost all connected with that country & that only, and as we have neither ships nor seamen of our own, nor likely to have any in the present course of things, no mercantile complaints are heard. The planters are dissatisfied, and with reason, but they enter little into the science of commerce, and rarely of themselves combine in defence of their interests. If any thing could rouse them to a proper view of their situation one might expect it from the contrast of the market here with that of other States. Our staple has of late been as low as a guinea per c[t] on Rappahannock, and not above 32 or 33*s*. on James River. The current prices in Philad[a] during the same period have been 44*s*. of this currency for tobacco of the latter inspections and in like proportion for that of the former. The prices of imports of every kind in those two

Markets furnish a contrast equally mortifying to us. I have not had the same information from other States northward of us, but I have little doubt that it would teach us the same lesson. Our planters cannot suffer a loss of less that 50 per c[t] on the staple of the Country, if to the direct loss in the price of the staple be added their indirect loss in the price of what they purchase with their staple. It is difficult notwithstanding to make them sensible of the utility of establishing a Philad[a] or[1] a Baltimore among ourselves, as one indispensable step towards relief, and the difficulty is not a little increased by the pains taken by the Merchants to prevent such a reformation, and by the opposition arising from local views. I have been told that *Arthur Lee*[2] *paved the way to his election in Prince William by promising* that, *among other* things *he would overset the Port Bill.* Mr. Jefferson writes me that the Port Bill has been published in all the Gazettes in Europe, with the highest approbation everywhere except in G. B. It would indeed be as surprising if she should be in favor of it as it is that any among ourselves should be against it. I see no possibility of engaging other nations in a rivalship with her without some such regulation of our commerce.

I am D[r] Sir Y[rs] affec[ly]

[1] By concentrating our Commerce at Alexandria and Norfolk the object of the Port-Bill. [Note in *MS.*]

[2] Italics for cypher.

TO R. H. LEE. MAD. MSS.

ORANGE July 7th, 1785.

DEAR SIR,—Your favor of the 30th of May came to hand yesterday only, having lain some time in Fredg and finally came to Orange via Albemarle. I agree perfectly with you in thinking it the interest of this Country to embrace the first decent opportunity of parting with Kentucky, and to refuse with firmness to part with any more of our settlements beyond the Allegheny.[1] It seems necessary however that this first instance of a voluntary dismemberment of a State should be conducted in such a manner as to form a salutary precedent. As it is an event which will indirectly affect the whole Confederacy, Congress ought clearly to be made a party to it, either imediately, or by a proviso that the partition act shall not take effect, till the actual admission of the new State into the Union. No interval whatever should be suffered between the release of our hold on that Country and its taking on itself the obligations of a member of the federal body. Should it be made a separate State without this precaution, it might possibly be

[1] "You may be surprised to hear that a late Convention have unanimously agreed to petition the assembly to have this District established into a State. I cannot explain the prevailing Sentiments better, than by telling you We conceive the people of this District do not at present enjoy a greater portion of Liberty than an American Colony might have done a few years ago had she been allowed a Representation in the British Parliament. . . . Until lately I have myself thought it would be more eligible to continue as we are a while longer; but finding that our Situation is too remote to enjoy the advantages of Government with Virginia in any tolerable degree, I have fallen in with the opinion that it is better to part in peace than to remain together in a state of Jealousy and Discontent." Caleb Wallace to Madison, Lincoln Co., July 12, 1785. *Mad. MSS.*

tempted to remain so, as well with regard to the U. S. as to Virginia, by two considerations: 1. the evasion of its share of the general debt. 2. the allurement which an exemption from taxes, would prove to the Citizens of States groaning under them. It is very possible that such a policy might in the end prove a disadvantageous one, but the charms of ambition and of present interest, too often prevail against the cool remonstrances of true policy. May we not also with justice require that a reasonable portion of the particular debt of Virg[a] should be assumed by that part of Virginia which is to set up for itself?

The arrival of Mr. Gardoqui will turn out I hope an auspicious step towards conciliating explanations & overtures with regard to the Mississippi. Besides the general motives for expediting an adjustment of this matter the prodigious effect of it on the sale of the back lands, makes it of peculiar importance. The same consideration presses for such arrangements with G. B. as will give us speedy possession of the Western posts. As to the commercial arrangements which we wish from her, I own my expectations are far from being sanguine. In fact what could she get from us by concessions which she is unwilling to make, which she does not now enjoy? I cannot speak with certainty as to all the States, but sure I am that the trade of this was never more compleatly monopolized by her when it was under the direction of her own laws than it is at this moment. Our present situation therefore precisely verifies the doctrine held out in Deanes' intercepted letters. The revolution has

robbed us of our trade with the West Indies the only one which yielded us a favorable balance, without opening any other channels to compensate for it. What makes the British monopoly the more mortifying is the abuse which they make of it. Not only the private planters who have resumed the practice of shipping their own Tob°, but many of the Merchants particularly the natives of the Country who have no connections with G. B. have rec^{d} acc^{ts} of sales this season, which carry the most visible & shameful frauds in every article. In every point of view indeed the trade of this Country is in a deplorable Condition. A comparison of current prices here with those in the Northern States, either at this time or at any time since the peace, will shew that the loss direct on our produce & indirect on our imports is not less than 50 per ct. Till very lately the price of our Staple has been down at 32 & 33*s*. on James River & 28*s*. on Rappahannock. During the same period the former was selling in Philad^{a}, & I suppose in other Northern ports, at 44*s*. of this Currency, and the latter in proportion; tho' it cannot be denied that Tob° in the Northern ports is intrinsically worth less than it is here, being at the same distance from its ultimate market, & burdened with the freight from this to the other States. The price of merchandize here is at least as much above as that of Tob° is below the Northern standard.

We have had throughout the month of June & until this time, very hot and very wet weather. The effect of it on upland corn has been favorable but

much the reverse on that of the flats. It has given full opportunity to the planters to pitch their crops of Tob°, but tho' many of them have repeated this operation several times the grasshoppers & other noxious insects have been so uncommonly troublesome that in many places the prospect is likely to be much abridged. Should this not be the case, the efforts of the Country must produce the greatest crop that has been seen since the peace. Our Wheat in this part of the Country is very indifferent. How it may be in others I cannot say, but believe the complaints are pretty general. With the highest esteem & regard I remain Dr Sir,

Your obt & very humble servt

TO EDMUND RANDOLPH. MAD. MSS.

ORANGE July 26, 1785.

MY DEAR FRIEND, — Your favour of the 17th inst: inclosing a letter from Mr. Jones and a copy of the ecclesiastical Journal, came safe to hand. If I do not dislike the contents of the latter, it is because they furnish as I conceive fresh and forcible arguments against the Genl Assessment. It may be of little consequence, what tribunal is to judge of Clerical misdemesnors or how firmly the incumbent may be fastened on the parish, whilst the Vestry & people may hear & pay him or not as they like. But should a legal salary be annexed to the title, this phantom of power would be substantiated into a real monster of

oppression. Indeed it appears to be so at present as far as the Glebes & donations extend. I had seen some parcels of these proceedings before I rec[d] your letter, and had remarked the sprinklings of liberality to which you allude. My conjectures, I believe, did not err as to the quarter from which they came.

The urgency of Gen[l] W. in the late negociation with Maryland makes it probable I think that he will feel some chagrin at the inattention to that with Penn[a], which has a much nearer connection with his favorite object and was moreover suggested by himself. Shortly after the date of my last, I dropped a few lines to Col: Mason, reminding him that some report will be expected from the Commissioners by the Assembly, as well as of the real importance of the business. I have not yet rec[d] any answer; and begin to suspect that my letter may have miscarried. Your information leads me to doubt whether he has ever been furnished with a copy of the Resolution under which he is to proceed. I will write to him again and inclose one which Mr. Jones sent me.

I have a letter from the Marquis, but dated as far back as March. It was accompanied with a Copy of a French Memorial to the Emperor which seems to have stifled the War in its birth; and an Extract from a late work of Mr. Neckar which has made him the idol of one party in France and the execration of the other. To avoid the trouble of transcribing, I send them as they came to me. You can peruse & return them by my brother who is the bearer of this, or by any future opportunity. The M. says he is

doing all he can to forward our claim to the Mississippi; that the French Ministry understand the matter & are well disposed; but that they are apprehensive "Spain knows not how to give up what she once has."

I had heard of the strictures on the incorporating Act, but without being able to pick up any of the papers in which they are published. I have desired my brother to search them out if he can. Perhaps you can refer him to the proper press & numbers.

At the instance of Col. N–l–s[1] of A–b–le, I undertook the draught of the inclosed remonstrance ag$^{st.}$ the Genl Ass^{t}. Subscriptions to it are on foot I believe in sundry Counties, and will be extended to others. My choice is that my name may not be associated with it. I am not sure that I know precisely your ideas on this subject; but were they more variant from mine than I take them to be I should not be restrained from a confidential communication.

I keep up my attention as far as I can command my time, to the course of reading which I have of late pursued & shall continue to do so. I am however far from being determined ever to make a professional use of it. My wish is if possible to provide a decent & independent subsistence, without encountering the difficulties which I foresee in that line. Another of my wishes is to depend as little as possible on the labour of slaves. The difficulty of reconciling these views, has brought into my thoughts several projects from which advantage seemed attainable. I have in concert with a friend here, one at present on the

[1] Nicholas, of Albemarle.

Anvil which we think cannot fail to yield a decent reward for our trouble. Should we persist in it, it will cost me a ride to Philad[a], after which it will go on without my being ostensibly concerned. I forbear to particularize till I can do it ore tenus. Should I take this ride I may *possibly* continue it into the Eastern States; Col Monroe having given me an invitation to take a ramble of curiosity this fall, which I have half a mind to accept, and among otther routes named this. I recollect that you talked yourself of a trip last Spring as far as Lancaster. Have you laid it aside totally? Or will your domestic endearments forbid even the trip to Bath, from which I promised myself the happiness of taking you by the hand in Orange? Give my warmest respects to Mrs. R, and be assured that I remain, with sincere affection your friend.

Was the Royal assent ever given to the act of 1769, entitled "An Act to amend an Act entitled, an Act declaring the law concerning Ex[tions] & for relief of insolvent Debtors."

TO JAMES MONROE. MAD. MSS.

ORANGE Aug: 7th 1785.

DEAR SIR,—I received the day before yesterday your favour of the 26th July. I had previously rec[d] the Report on the proposed change of the 9th art. of the Confederation, transmitted by Col: Grayson; and in my answer to him offered such ideas on the subject

as then occurred. I still think the probability of success or failure ought to weigh much with Congress in every recommendation to the States; of which probability Congress, in whom information from every State centers can alone properly judge. Viewing in the abstract the question whether the power of regulating trade, to a certain degree at least, ought to be vested in Congress, it appears to me not to admit of a doubt, but that it should be decided in the affirmative. If it be necessary to regulate trade at all, it surely is necessary to lodge the power where trade can be regulated with effect; and experience has confirmed what reason foresaw, that it can never be so regulated by the States acting in their separate capacities. They can no more exercise this power separately than they could separately carry on war, or separately form treaties of alliance or commerce. The nature of the thing therefore proves the former power, no less than the latter, to be within the reason of the fœderal Constitution. Much indeed is it to be wished, as I conceive, that no regulations of trade, that is to say, no restrictions on imposts whatever, were necessary. A perfect freedom is the System which would be my choice. But before such a System will be eligible perhaps for the U. S. they must be out of debt; before it will be attainable, all other nations must concur in it. Whilst any one of these imposes on our Vessels seamen &c. in their ports, clogs from which they exempt their own, we must either retort the distinction, or renounce not merely a just profit,

but our only defence against the danger which may most easily beset us. Are we not at this moment under this very alternative? The policy of G. B. (to say nothing of other nations) has shut against us the channels without which our trade with her must be a losing one; and she has consequently the triumph, as we have the chagrin, of seeing accomplished her prophetic threats, that our independence should forfeit commercial advantages for which it would not recompence us with any new channels of trade. What is to be done? Must we remain passive victims to foreign politics, or shall we exert the lawful means which our independence has put into our hands of extorting redress? The very question would be an affront to every Citizen who loves his Country. What, then, are these means? Retaliating regulations of trade only. How are these to be effectuated? only by harmony in the measures of the States. How is this harmony to be obtained? only by an acquiescence of all the States in the opinion of a reasonable majority. If Congress as they are now constituted, can not be trusted with the power of digesting and enforcing this opinion, let them be otherwise constituted: let their numbers be encreased, let them be chosen oftener, and let their period of service be shortened; or if any better medium than Congress can be proposed by which the wills of the States may be concentered, let it be substituted; or lastly let no regulation of trade adopted by Congress be in force until it shall have been ratified by a certain proportion of the States. But let us not sacrifice the end to the

means: let us not rush on certain ruin in order to avoid a possible danger. I conceive it to be of great importance that the defects of the fœderal system should be amended, not only because such amendments will make it better answer the purpose for which it was instituted, but because I apprehend danger to its very existence from a continuance of defects which expose a part if not the whole of the empire to severe distress. The suffering part, even when the minor part, can not long respect a Government which is too feeble to protect their interests: But when the suffering part comes to be the major part, and they despair of seeing a protecting energy given to the General Government, from what motives is their allegiance to be any longer expected. Should G. B. persist in the machinations which distress us; and seven or eight of the States be hindered by the others from obtaining relief by fœderal means, I own, I tremble at the anti-fœderal expedients into which the former may be tempted.

As to the objection against entrusting Congress with a power over trade, drawn from the diversity of interests in the States, it may be answered, 1. that if this objection had been listened to, no confederation could have ever taken place among the States, 2. that if it ought now to be listened to, the power held by Congress of forming comercial treaties, by which 9 States may indirectly dispose of the Commerce of the residue, ought to be immediately revoked, 3 that the fact is that a case can scarcely be imagined in which it would be the interest of any 2/3^{ds} of the

States to oppress the remaining 1/3^{d}. 4. that the true question is whether the commercial interests of the States do not meet in more points than they differ. To me it is clear that they do; and if they do there are so many more reasons for, than against, submitting the commercial interest of each State to the direction and care of the Majority. Put the West India trade alone, in which the interest of every State is involved, into the scale against all the inequalities which may result from any probable regulation by nine States, and who will say that the latter ought to preponderate? I have heard the different interest which the Eastern States have as Carriers pointed out as a ground of caution to the Southern States who have no bottoms of their own agst their concurring hastily in retaliations on G. B. But will the present system of G. B. ever give the Southern States bottoms, and if they are not their own Carriers I s^{d} suppose it no mark either of folly or incivility to give our custom to our brethren, rather than to those who have not yet entitled themselves to the name of friends.

In detailing these sentiments, I have nothing more in view than to prove the readiness with which I obey your requests. As far as they are just they must have been often suggested in the discussions of Congress on the subject. I can not even give them weight by saying that I have reason to believe they would be relished in the public Councils of this State. From the trials of which I have been a witness I augur that great difficulties will be encountered in every attempt

to prevail on the Legislature to part with power. The thing itself is not only unpalatable, but the arguments which plead for it have not their full force on minds unaccustomed to consider the interests of the State as they are interwoven with those of the Confederacy much less as they may be affected by foreign politics, whilst those wch plead ag^st^ it are not only specious, but in their nature popular; and for that reason sure of finding patrons. Add to all this that the Mercantile interest which has taken the lead in rousing the public attention of other States, is in this so exclusively occupied in British Commerce that what little weight they have will be most likely to fall into the opposite scale. The only circumstance which promises a favorable hearing to the meditated proposition of Cong^s^ is that the power which it asks is to be exerted ag^st^ G. B. and the proposition will consequently be seconded by the animosities which still prevail in a strong degree ag^st^ her.

I am, My dear Sir very sincerely,

Y^r^ friend & serv^t^

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE Aug. 20th 1785.

DEAR SIR,—Yours of the 18th of March never reached me till the 4th inst. It came by post from N. York, which it did not leave till the 21 of July. My last was dated in April, & went by Mr. Mazzei, who picked it up at N. York and promised to deliver it with his own hand.

The machinations of G. B. with regard to Commerce have produced much distress and noise in the Northern States, particularly in Boston, from whence the alarm has spread to New York & Phild[a]. Your correspondence with Cong[s] will no doubt have furnished you with full information on this head. I only know the general fact, and that the sufferers are everywhere calling for such augmentation of the power of Congress as may effect relief. How far the Southern States & Virginia in particular will join in this proposition cannot be foreseen. It is easy to foresee that the circumstances which in a confined view distinguish our situation from that of our brethren, will be laid hold of by the partizans of G. B, by those who are or affect to be jealous of Congress, and those who are interested in the present course of business, to give a wrong bias to our Councils. If anything should reconcile Virg[a] to the idea of giving Congress a power over her trade, it will be that this power is likely to annoy G. B. against whom the animosities of our Citizens are still strong. They seem to have less sensibility to their commercial interests; which they very little understand, and which the mercantile class here have not the same motives if they had the same capacity to lay open to the public, as that class have in the States North of us. The price of our Staple since the peace is another cause of inattention in the planters to the dark side of our commercial affairs. Should these or any other causes prevail in frustrating the scheme of the Eastern & Middle States of a general retaliation on G. B. I

[1] *tremble for the event.* A *majority* of *the States* deprived of a *regular remedy for their distresses* by *the want* of *a federal spirit in the minority* must *feel the* strongest *motives to some* irregular *experiments.* The *danger of such a crisis* makes me surmise that the *policy* of *G. B.* results as much from *the hope of effecting a breach in our Confederacy* as *of monopolizing our trade.*

Our internal trade is taking an arrangement from which I hope good consequences. Retail Stores are spread[g] all over the country, many of them carried on by native adventurers, some of them branched out from the principal Stores at the heads of navigation. The distribution of the business, however into the importing & the retail departments has not yet taken place. Should the port bill be established it will I think quickly add this amendment which indeed must in a little time follow of itself. It is the more to be wished for as it is the only radical cure for credit to the consumer which continues to be given to a degree which if not checked will turn the diffusive retail of merchandize into a nuisance. When the Shop keeper buys his goods of the wholesale merchant, he must buy at so short a credit, that he can venture to give none at all.

You ask me to unriddle the *dissolution of the Comm^e^ of the States at Annapolis.* I am not sure that I am myself possessed fully of the causes *different members of Congress* having *differed in their accounts of the matter.* My conception of it is that *the*

[1] Italics for cypher.

abrupt departure of some of the *Eastern delegates*, which *destroyed the quorum* & which *Dana* is said *to have been at the bottom of* proceeded *partly from irritations among the commẽ partly from dislike to the place of their session*, and *partly from an impatience to get home*, which prevailed over *their regard* for *their private characters*, as well as for *their public duty*.

Subsequent to the date of *mine in* which I gave my idea of *fayette* I had further opportunities of *penetrating his character*. Though *his foibles did* not *disappear* all the *favorable traits* presented themselves in a *stronger light* on *closer inspection*. He certainly possesses *talents which might figure in any line*. If *he is ambitious* it is rather of the *praise* which virtue *dedicates to merit* than *of the homage* which *fear renders to power his disposition is* naturally *warm & affectionate*, and *his attachment to the U. S.* unquestionable. Unless *I am grossly deceived*, you will *find his zeal sincere* and *useful*, whenever it can be *employed* in behalf *of the U. S. with* [*out*] *opposition to the essential interests of France*.

The opposition to the general assessment gains ground. At the *instance of some of its adversaries I drew up the remonstrance* herewith inclosed. It has been *sent* thro' the *medium of confidential persons in a number of the upper Counties*, and I am told will be pretty extensively signed. The presbyterian clergy, have at length espoused the side of the opposition, being moved either by *a fear of their laity* or *a jealousy of the episcopalians*. The mutual hatred of these sects has been much inflamed by the late Act

incorporating the latter. *I am far* from being *sorry for it*, as *a coalition between them* could *alone endanger our religious rights*, and a tendency to *such an event had been suspected.* The fate of the Circuit Courts is uncertain. They are threatened with no small danger from the diversity of opinions entertained among the friends of some reform in that department. But the greatest danger is to be feared from those who mask a secret aversion to any reform under a zeal for such a one as they know will be rejected. The Potowmack Company are going on with very flattering prospects. Their subscriptions some time ago amounted to upwards of four-fifths of the whole sum. I have the pleasure also to find by an advertisement from the managers for James River that more than half the sum is subscribed for that undertaking, and that the subscribers are to meet shortly for the purpose of organizing themselves & going to work. I despair of seeing the Revisal taken up at the ensuing Session. The number of copies struck are so deficient (there being not above three for each County) and there has been such delay in distributing them (none of the Counties having rec^{d} them till very lately & some probably not yet, tho' they were ready long ago,) that the principal end of their being printed has been frustrated. Our fields promise very short crops both of Corn & Tob^{o}. The latter was much injured by the grass hopper & other insects; the former, somewhat by the bug in the Southern parts of the State, but both have suffered most from dry weather which prevails at present in this part of the Country, and has

generally prevailed I understand in most other parts. It seems certain that no future weather can make a great crop of either particularly of Tob°, so great a proportion of the hills being without plants in them & so many more with plants in them which must come to nothing. Notwithstanding this prospect, its price has fallen from 36*s.* to 32 & 30*s.* on James River & 28*s.* on Rappahannock. The scarcity of cash is one cause. [1] *Harrison late Gov.* was *elected in Surry*, whither *he previously removed with his family a contest* for *the chair* will *no* doubt *ensue* should *he fail he* will be *for Congress.* I have not yet rec[d] any of the books which you have been so kind as to pick up for me, but expect their arrival daily, as you were probably soon after the date of your last apprised that I was withdrawn from the nomination which led you to suspend the forwarding them. I am invited by Col : Monroe to an option of rambles this fall, one of which is into the Eastern States. I wish much to accept so favorable an opportunity of executing the plan from which I was diverted last fall ; but cannot decide with certainty whether it will be practicable or not. I have in conjunction with a friend here a project of interest on the anvil, which will carry me at least as far as Phil[a] or New York where I shall be able to take my final resolution.

Adieu. Yrs sincerely.

[1] Italics for cypher.

TO CALEB WALLACE.[1]

MAD. MSS.

ORANGE, Augt 23^{d}, 1785.

DR SIR,—Your favour of the 12th of July was safely delivered to me by Mr. Craig. I accept with pleasure your proposed exchange of Western for Eastern intelligence and though I am a stranger to parental ties can sufficiently conceive the happiness of which they are a source to congratulate you on your possession of two fine sons & a Daughter. I do not smile at the Idea of transplanting myself into your wilderness. Such a change of my abode is not indeed probable yet I have no Local partialities which can keep me from any place which promises the greatest real advantages, but if such a removal was not even possible I should nevertheless be ready to communicate as you desire my Ideas towards a constitution of Government for the State in embryo. I pass over the general policy of the measure which calls for such a provision. It has been unanimously embraced by those who being most interested in it must have best considered it, & will I dare say be with equal unanimity acceded to by the other party which is to be consulted. I will first offer some general remarks on the Subject, & then answer your several queries.

[1] Several of Madison's friends in Kentucky wrote to him asking his assistance in the framing of a new government. January 6, 1785, George Muter transmitted questions which Caleb Wallace wished answered, which were the same as those answered above. In the MSS. this letter is not addressed, and is marked as having been sent to "John Brown, Kentucky," but Sept. 24, 1785, Caleb Wallace replied to it as a letter to him, which doubtless it was.—*Mad. MSS.*

1. *The Legislative Department* ought by all means, as I think to include a Senate constituted on such principles as will give *wisdom* and *steadiness* to legislation. The want of these qualities is the grievance complained of in all our republics. The want of *fidelity* in the administration of power having been the grievance felt under most Governments, and by the American States themselves under the British Government, it was natural for them to give too exclusive an attention to this primary attribute. The Senate of Maryland with a few amendments is a good model. Trial has I am told verified the expectations from it. A Similar one made a part of our constitution as it was originally proposed but the inexperience & jealousy of our then Councils, rejected it in favor of our present Senate a worse could hardly have been substituted & yet, bad as it is, it is often a useful bit in the mouth of the house of Delegates. Not a single Session passes without instances of sudden resolutions by the latter of which they repent in time to intercede privately with the Senate for their Negative. For the other branch models enough may be found care ought however to be taken against its becoming too numerous, by fixing the number which it is never to exceed. The quorum, wages, and privileges of both branches ought also to be fixed. A majority seems to be the natural quorum. The wages of the members may be made payable for —— years to come in the medium value of wheat for years preceding as the same shall from period to period be rated by a respectable Jury appointed for

that purpose by the Supreme Court. The privileges of the members ought not in my opinion to extend beyond an exemption of their persons and equipage from arrests during the time of their actual service. If it were possible it would be well to define the extent of the Legislative power but the nature of it seems in many respects to be indefinite. It is very practicable however to enumerate the essential exceptions. The Constitution may expressly restrain them from medling with religion—from abolishing Juries—from taking away the Habeas corpus—from forcing a citizen to give evidence against himself—from controuling the press—from enacting retrospective laws at least in criminal cases, from abridging the right of suffrage, from taking private property for public use without paying its full Value from licensing the importation of Slaves, from infringing the confederation, &c &c.

As a further security against fluctuating & indigested laws the Constitution of New York has provided a Council of Revision. I approve much of such an institution & believe it is considered by the most intelligent citizens of that State as a valuable safeguard both to public interests & to private rights. Another provision has been suggested for preserving System in Legislative proceedings which to some may appear still better. It is that a standing committee composed of a few select & skilful individuals should be appointed to prepare bills on all subjects which they may judge proper to be submitted to the Legislature at their meetings & to draw bills for them

during their Sessions. As an antidote both to the jealousy & danger of their acquiring an improper influence they might be made incapable of holding any other Office Legislative, Executive, or Judiciary. I like this Suggestion so much that I have had thoughts of proposing it to our Assembly, who give almost as many proofs as they pass laws of their need of some such Assistance.

2 *The Executive Department.* Though it claims the 2[d] place is not in my estimation entitled to it by its importance all the great powers which are properly executive being transferred to the fœderal Government. I have made up no final opinion whether the first Magistrate should be chosen by the Legislature or the people at large or whether the power should be vested in one man assisted by a council or in a council of which the President shall be only primus inter pares. There are examples of each in the U. States and probably advantages & disadvantages attending each. It is material I think that the number of members should be small & that their Salaries should be either unalterable by the Legislature or alterable only in such manner as will not affect any individual in place. Our Executive is the worst part of a bad Constitution. The Members of it are dependent on the Legislature not only for their wages but for their reputation and therefore are not likely to withstand usurpations of that branch; they are besides too numerous and expensive, their organization vague & perplexed & to crown the absurdity some of the members may without any new appointment continue in Office for life

contrary to one of the Articles of the Declaration of Rights.

3[d] *The Judiciary Department* merits every care Its efficacy is Demonstrated in G. Brittain where it maintains private Right against all the corruptions of the two other departments & gives a reputation to the whole Government which it is not in itself entitled to. The main points to be attended to are 1. that the Judges should hold their places during good behavior 2. that their Salaries should be either fixed like the wages of the Representatives or not be alterable so as to affect the Individuals in office. 3 that their Salaries be liberal The first point is obvious; without the second the independence aimed at by the first will be ideal only; without the 3[d] the bar will be superior to the bench which destroys all security for a Systematick administration of Justice. after securing these essential points, I should think it unadvisable to descend so far into detail as to bar any future Modification of this department which experience may recommend An enumeration of the Principal courts with Power to the Legislature to Institute inferior Courts may suffice. The Admiralty business can never be extensive in your situation and may be referred to one of the other Courts. With regard to a Court of Chancery as distinct from a Court of Law, the reasons of Lord Bacon on the affirmative side outweigh in my Judgment those of Lord Kaims on the other side. Yet I should think it best to leave this important question to be decided by future lights without tying the hands of the Legislature one way

or the other. I consider our county courts as on a bad footing and would never myself consent to copy them into another constitution.

All the States seem to have seen the necessity of providing for Impeachments but none of them to have hit on an unexceptionable Tribunal. In some the trial is referred to the Senate in others to the Executive, in others to the Judiciary department it has been suggested that a tribunal composed of members from each Department would be better than either and I entirely concur in that opinion. I proceed next to your queries.

1. "Whether is a representation according to num-"bers, or property, or in a joint proportion to both, "the most Safe? or is a representation by counties "preferable to a more equitable mode that will be diffi-"cult to adjust?" Under this question may be considered 1. the right of Suffrage. 2 the mode of suffrage. 3 the Plan of representation As to the 1. I think the extent which ought to be given to this right a matter of great delicacy and of critical importance. To restrain it to the land holders will in time exclude too great a proportion of citizens; to extend it to all citizens without regard to property, or even to all who possess a pittance may throw too much power into hands which will either abuse it themselves or sell it to the rich who will abuse it. I have thought it might be a good middle course to narrow this right in the choice of the least popular, & to enlarge it in that of the more popular branch of the Legislature. There is an example of this

Distinction in N. Carolina if in none of the other States. How it operates or is relished by the people I cannot say. It would not be surprising if in the outset at least it should offend the sense of equality which reigns in a free Country. In a general view I see no reason why the rights of property which chiefly bears the burden of Government & is so much an object of Legislation should not be respected as well as personal rights in the choice of Rulers. It must be owned indeed that property will give influence to the holder though it should give him no legal privileges and will in general be safe on that as well as on other Accounts especially if the business of legislation be guarded with the provisions hinted at 2 As to the mode of suffrage I lean strongly to that of the ballot, notwithstanding the objections which lie against it It appears to me to be the only radical cure for those arts of Electioneering which poison the very fountain of Liberty The States in which the Ballott has been the Standing mode are the only instances in which elections are tolerably chaste and those arts in disgrace. If it should be thought improper to fix this mode by the constitution I should think it at least necessary to avoid any constitutional bar to a future adoption of it[1] 3 By the Plan of representation I mean 1. the classing of the Electors 2 the proportioning of the representatives to each class. The first cannot be otherwise done than by geographical description as by Counties. The second may

[1] The Constitution of N. York directs an experiment on this Subject. [Note in *MS.*]

easily be done in the first instance either by comprising within each county an equal number of electors; or by proportioning the number of representatives of each county to its number of electors The difficulty arises from the disproportionate increase of electors in different Counties. There seem to be two methods only by which the representation can be equalized from time to time. The 1 is to change the bounds of the counties; the 2d to change the number of representatives allotted to them respectively, as the former would not only be most troublesome & expensive but would involve a variety of other adjustments the latter method is evidently the best. Examples of a Constitutional provision for it exists in several of the States. In some it is to be executed periodically in others, pro re nata. The latter seems most accurate and very practicable I have already intimated the propriety of fixing the number of representatives, which ought never to be exceeded I should suppose 150 or even 100, might safely be made the ne plus ultra for Kentucky

2. "Which is to be preferred an Annual, Triennial, "or Septennial Succession to Offices or frequent elec- "tions without limitations in choice or that officers "when chosen should continue quamdiu se bene ges- "serint?" The rule ought no doubt to be different in the different Departments of power. For one part of the Legislature Annual Elections will I suppose be held indispensably though some of the ablest Statesmen & soundest Republicans in the U. States are in favor of triennial. The great Danger in

departing from annual elections in this case lies in the want of some other natural term to limit the departure. For the other branch 4 or 5 years may be the period. For neither branch does it seem necessary or proper to prohibit an indefinite re-eligibility. With regard to the Executive if the elections be frequent & particularly if made as to any member of it by the people at large a re-eligibility cannot I think be objected to, if they be unfrequent, a temporary or perpetual incapacitation according to the degree of unfrequency at least in the case of the first Magistrate may not be amiss. As to the Judiciary department enough has been said & as to the Subordinate officers civil & Military nothing need be said more than that a regulation of their appointments may under a few restrictions be safely trusted to the Legislature.

3 "How far may the same person with propriety "be employed in the different departments of Gov- "ernment in an infant country where the counsel of "every individual may be needed?" Temporary deviations from fundamental principles are always more or less dangerous. When the first pretext fails, those who become interested in prolonging the evil will rarely be at a loss for other pretexts. The first precedent too familiarises the people to the irregularity, lessens their veneration for those fundamental principles, & makes them a more easy prey to ambition & self Interest. Hence it is that abuses of every kind when once established have been so often found to perpetuate themselves. In this caution

I refer chiefly to an improper mixture of the three great Departments within the State. A Delegation to Congress is I conceive compatible with either.

4 "Should there be a periodical review of the Constitution?" Nothing appears more elegible in theory nor has sufficient trial perhaps been yet made to condemn it in practice. Pennsylvania has alone adopted the expedient. Her citizens are much divided on the subject of their Constitution in general & probably on this part of it in particular. I am inclined to think though am far from being certain, that it is not a favorite part even with those who are fondest of their Constitution. another plan has been thought of which might perhaps Succeed better and would at the same time be a safeguard to the equilibrium of the constituent Departments of Government. This is that a Majority of any two of the three departments should have authority to call a plenipotentiary convention whenever they may think their constitutional powers have been Violated by the other Department or that any material part of the Constitution needs amendment In your situation I should think it both imprudent & indecent not to leave a door open for at least one revision of your first Establishment, imprudent because you have neither the same resources for supporting nor the same lights for framing a good establishment now as you will have 15 or 20 Years hence, indecent because an handful of early settlers ought not to preclude a populous Country from a choice of the Government under which they & their posterity are to live.

Should your first Constitution be made thus temporary the objections against an intermediate union of offices will be proportionably lessened. Should a revision of it not be made thus necessary & certain there will be little probability of its being ever revised. Faulty as our Constitution is as well with regard to the Authority which formed it as to the manner in which it is formed the Issue of an experiment has taught us the difficulty of amending it: & although the issue might have proceeded from the unseasonableness of the time yet it may be questioned whether at any future time the greater depth to which it will have stricken its roots will not counterbalance any more auspicious circumstances for overturning it.

5 & 6 "Or will it be better unalterably to fix "some leading Principles in Government and make "it consistant for the Legislature to introduce such "changes in lesser matters as may become expedi-"ent? can censors be provided that will impartially "point out deficiencies in the Constitution & the "Violations that may happen"

Answers on these points may be gathered from what has been already said.

I have been led to offer my sentiments in this loose form rather than to attempt a delineation of such a Plan of government as would please myself not only by my Ignorance of many local circumstances & opinions which must be consulted in such a work but also by the want of sufficient time for it. At the receipt of your letter I had other employment and what I now write is in the midst of preparations

for a Journey of business which will carry me as far as Philadelphia at least & on which I shall set out in a day or two.

I am sorry that it is not in my power to give you some satisfactory information concerning the Mississippi. A Minister from Spain has been with Congress for some time & is authorised as I understand to treat on whatever subjects may concern the two nations. If any explanations or propositions have passed between him & the Minister of Congress, they are as yet in the list of Cabinet Secrets. as soon as any such shall be made Public & come to my knowledge, I shall take the first opportunity of transmitting them. Wishing you & your family all happiness,

I am, Dr Sir,

Your friend & servant.

The Constitutions of the several States were printed in a small Volume a year or two ago by order of Cong^{s} a perusal of them need not be recommended to you. Having but a single copy I cannot supply you It is not improbable that you may be already possessed of one. The revisal of our laws by Jefferson, Wythe & Pendleton beside their Value in improving the legal code may suggest something worthy of being attended to in framing a Constitution.

TO THOMAS JEFFERSON. MAD. MSS.

PHILAD^{A} Octr 3d, 1785.

DEAR SIR,—In pursuance of the plan intimated in my last I came to this city about three weeks ago, from which I continued my trip to New York. I returned last night and in a day or two shall start for Virginia. Col. Monroe had left Philad^{a} a few days before I reached it, on his way to a treaty to be held with the Indians about the end of this month on the Wabash. If a visit to the Eastern States had been his choice, short as the time would have proved, I should have made an effort to attend him. As it is I must postpone that gratification, with a purpose however of embracing it on the first convenient opportunity. Your favour of the 11 May by Monsr Doradour inclosing your Cypher arrived in Virg^{a} after I left it, and was sent after me to this place. Your notes which accompanied it, remained behind, and consequently I can only now say on that subject, that I shall obey your request on my return, which my call to Richmond will give me an early opportunity of doing. During my stay at New York I had several conversations with the Virg^{a} Delegates, but with few others, on the affairs of the confederacy. I find with much regret that these are as yet little redeemed from the confusion which has so long mortified the friends to our national honor and prosperity. Congress have kept the Vessel from sinking, but it has been by standing constantly at the pump, not by stopping the leaks which have endangered her. All their efforts for the latter purpose have been frus-

trated by the selfishness or perverseness of some part or other of their constituents. The desiderata most strongly urged by our past experience & our present situation are 1. a final discrimination between such of the unauthorised expences of the States as ought to be added to the common debt, and such as ought not. 2. a constitutional apportionment of the common debt, either by a valuation of the land, or a change of the article wch requires it. 3. a recognition by the States of the authority of Congress to enforce payment of their respective quotas. 4. a grant to Congress of an adequate power over trade. It is evident to me that the first object will never be effected in Congress, because it requires in those who are to decide it the spirit of impartial judges, whilst the spirit of those who compose Congress is rather that of advocates for the respective interests of their constituents. If this business were referred to a Commission filled by a member chosen by Congress out of each State, and sworn to impartiality, I should have hopes of seeing an end of it. The 2^{d} object affords less ground of hope. The execution of the 8th art of Confederation is generally held impracticable, and R. Island, if no other State, has put its veto on the proposed alteration of it. Until the 3^{d} object can be obtained the Requisitions of Congress will continue to be mere calls for voluntary contributions, which every State will be tempted to evade, by the uniform experience that those States have come off best which have done so most. The present plan of federal Government reverses the first principle of

all Government. It punishes not the evil-doers, but those that do well. It may be considered I think as a fortunate circumstance for the U. S. that the use of coercion, or such provision as would render the use of it unnecessary, might be made at little expence and perfect safety. A single frigate under the orders of Congress could make it the interest of any one of the Atlantic States to pay its just Quota. With regard to such of the Ultramontane States as depend on the trade of the Mississippi, as small a force would have the same effect; whilst the residue trading thro' the Atlantic States might be wrought upon by means more indirect indeed but perhaps sufficiently effectual.

The fate of the 4th object is still suspended. The Recomendations of Congs on this subject past before your departure, have been positively complied with by few of the States I believe; but I do not learn that they have been rejected by any. A proposition has been agitated in Congress, and will I am told be revived, asking from the States a general & permanent authority to regulate trade, with a proviso that it shall in no case be exercised without the assent of *eleven* States in Congress. The Middle States favor the measure, the Eastern are zealous for it, the Southern are divided. [1] *of* the *Virginia delegation* the *president*[2] *is an inflexible adversary, Grayson unfriendly* and *Monroe* & *Hardy warm on the opposite side.* If the proposition should pass Congs its fate will depend much on the reception it may find in

[1] Italics for cypher.

[2] R. H. Lee.

Virg[a] and this will depend much on the part which may be taken by a few members of the Legislature. The prospect of its being levelled ag[st] G. Britain will be most likely to give it popularity. In this suspence of a general provision for our commercial interests, the more suffering States are seeking relief from partial efforts which are less likely to obtain it than to drive their trade into other channels, and to kindle heart-burnings on all sides. Massachusetts made the beginning, Penn[a] has followed with a catalogue of duties on foreign goods & tonnage, which could scarcely be enforced against the smuggler, if N. Jersey, Delaware, & Maryland were to co-operate with her. The avowed object of these duties is to encourage domestic manufactures, and prevent the exportation of coin to pay for foreign. The Legislature had previously repealed the incorporation of the bank, as the cause of the latter & a great many other evils. S. Carolina I am told is deliberating on the distresses of her commerce and will probably concur in some general plan; with a proviso, no doubt against any restraint from importing slaves, of which they have received from Africa since the peace about twelve thousand. She is also deliberating on the emission of paper money, & it is expected she will legalize a suspension of Judicial proceedings which has been already effected by popular combinations. The pretext for these measures is the want of specie occasioned by the unfavorable balance of trade. Your introduction of Mr. T. Franklin has been presented to me. The arrival of his Grandfather has produced an emulation

among the different parties here in doing homage to his character. He will be unanimously chosen president of the State and will either restore to it an unexpected quiet or lose his own. It appears from his answer to some applications that he will not decline the appointment. On my journey I called at Mount Vernon & had the pleasure of finding the Gen! in perfect health. He had just returned from a trip up the Potowmac. He grows more & more sanguine as he examines further into the practicability of opening its navigation. The subscriptions are compleated within a few shares, and the work is already begun at some of the lesser obstructions. It is overlooked by Rhumsey, the inventor of the boats which I have in former letters mentioned to you: He has not yet disclosed his secret. He had of late nearly finished a boat of proper size, wch he meant to have exhibited, but the house which contained it & materials for others was consumed by fire. He assured the Gen! that the enlargement of his machinery did not lessen the prospect of utility afforded by the miniature experiments. The Gen! declines the shares voted him by the Assembly, but does not mean to withdraw the money from the object which it is to aid, and will even appropriate the future tolls I believe to some useful public establishment if any such can be devised that will both please himself & be likely to please the State. This is accompanied by a letter from our amiable friend Mrs. Trist to Miss Patsy. She got back safe to her friends in Aug.^st^ & is as well as she has generally been, but her cheerfulness seems to be

rendered less uniform than it once was by the scenes of adversity through which fortune has led her. Mrs. House is well & charges me not to omit her respectful & affect^e^ compliments to you.

I remain Dr Sir, Y^rs^ &c

MEMORIAL AND REMONSTRANCE AGAINST RELIGIOUS ASSESSMENTS.[1]

To the Honorable the General Assembly
of
the Commonwealth of Virginia.
A Memorial and Remonstrance.

We, the subscribers, citizens of the said Commonwealth, having taken into serious consideration, a Bill printed by order of the last Session of General Assembly, entitled "A Bill establishing a provision for Teachers of the Christian Religion," and conceiving

[1] By a vote of ayes 48, noes 38, the third reading of the engrossed bill to establish a provision for the teachers of the Christian religion was postponed December 24, 1784, to the fourth Thursday in the next November. Among those voting against the postponement were Benjamin Harrison, Joseph Jones, John Marshall, Philip Barbour, Richard Bland Lee, Richard Henry Lee, and Henry Tazewell. Washington also favored the bill. It was printed for distribution among the voters in order that their sentiments towards it might be ascertained. Among its opponents were Wilson Cary Nicholas and George Nicholas. A copy of the bill is found among the Washington MSS. The copy of the Remonstrance used here is one of the broadsides printed by the Phenix Press of Alexandria, now in the Virginia Historical Society, with a number of signatures appended to it. It has been collated with the notes in Madison's hand found among the Madison MSS.

"My brother informs me that he conversed with you on the propriety of remonstrating against certain measures of the last session of Assembly and that you seemed to think it would be best that the counties opposed to the measure should be silent. I fear this would be construed into an assent especially to the law for establishing a certain provision for the clergy: for as the Assembly only postponed the passing of it that they might know whether it was disagreeable to the people I think they may justly conclude that all are for it who do not say to the contrary. A majority of the counties are in favor of the measure but

that the same, if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State, to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said Bill,

1. Because we hold it for a fundamental and undeniable truth, "that Religion or the duty which we owe to our Creator and the Manner of discharging it, can be directed only by reason and conviction, not by force or violence."[1] The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable; because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men: It is unalienable also; because what is here a right towards men, is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent both in order of time and degree of obligation, to the claims

undecipherable] a great majority of the people against it, but if this majority should not appear by petition the fact will be denied. Another reason why all should petition is that some will certainly do it and those who support the bills will insist that those who petition are all the opposition. Would it not add greatly to the weight of the petition if they all hold the same language? by discovering an exact uniformity of sentiment in a majority of the country it would certainly deter the majority of the assembly from proceeding. All my expectations are from their fears, and not their justice. . . . If you think with me that it will be proper to say something to the Assembly, will you commit it to paper. I risk this because I know you are most capable of doing it properly and because it will be most likely to be generally adopted. I can get it sent to Amherst Buckingham Albemarle, Fluvanna, Augusta, Botetourt, Rock Bridge and Rockingham and have no doubt that Bedford and the counties Southward of it will readily join in the measure. I will also send it to Frederick and Berkeley and if it goes from your county to Farquieur Culpeper and Loudoun it will be adopted by the most populous part of the country."—George Nicholas to Madison, Charlottesville, April 22nd 1785, *Mad. MSS.*

"I found that no alteration could be made to the remonstrance without injury and immediately had it copied and sent to the counties I mentioned in a former letter."—Nicholas to Madison, Sweet Springs, July 24, 1785, *Mad. MSS.*

[1] Decl. Rights, Art: 16. [Note in the original.]

of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe: And if a member of Civil Society, who enters into any subordinate Association, must always do it with a reservation of his duty to the general authority; much more must every man who becomes a member of any particular Civil Society, do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of Religion, no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance. True it is, that no other rule exists, by which any question which may divide a Society, can be ultimately determined, but the will of the majority; but it is also true, that the majority may trespass on the rights of the minority.

2. Because if religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the co-ordinate departments, more necessarily is it limited with regard to the constituents. The preservation of a free government requires not merely, that the metes and bounds which separate each department of power may be invariably maintained; but more especially, that neither of them be suffered to overleap the great Barrier which defends the rights of the people. The Rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are Tyrants. The People who submit to it are governed by laws made neither by themselves, nor by an authority derived from them, and are slaves.

3. Because, it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of [the] noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the

principle. We revere this lesson too much, soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?

4. Because, the bill violates that equality which ought to be the basis of every law, and which is more indispensible, in proportion as the validity or expediency of any law is more liable to be impeached. If "all men are by nature equally free and independent,"[1] all men are to be considered as entering into Society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights. Above all are they to be considered as retaining an "*equal* title to the free exercise of Religion according to the dictates of conscience"[2] Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man: To God, therefore, not to men, must an account of it be rendered. As the Bill violates equality by subjecting some to peculiar burdens; so it violates the same principle, by granting to others peculiar exemptions. Are the Quakers and Menonists the only sects who think a compulsive support of their religions unnecessary and unwarantable? Can their piety alone be intrusted with the care of public worship? Ought their Religions to be endowed above all others, with extraordinary privileges, by which proselytes may be enticed from all others? We think too favorably of the justice and good sense of these denominations, to believe that they either covet pre-eminencies over their fellow citizens, or that they will be seduced by them, from the common opposition to the measure.

[1] Decl. Rights, Art. 1. [Note in the original.]
[2] Art: 16. [Note in the original.]

5. Because the bill implies either that the Civil Magistrate is a competent Judge of Religious truth ; or that he may employ Religion as an engine of Civil policy. The first is an arrogant pretension falsified by the contradictory opinions of Rulers in all ages, and throughout the world : The second an unhallowed perversion of the means of salvation.

6. Because the establishment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself ; for every page of it disavows a dependence on the powers of this world : it is a contradiction to fact ; for it is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them ; and not only during the period of miraculous aid, but long after it had been left to its own evidence, and the ordinary care of Providence : Nay, it is a contradiction in terms ; for a Religion not invented by human policy, must have pre-existed and been supported, before it was established by human policy. It is moreover to weaken in those who profess this Religion a pious confidence in its innate excellence, and the patronage of its Author ; and to foster in those who still reject it, a suspicion that its friends are too conscious of its fallacies, to trust it to its own merits.

7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation. During almost fifteen centuries, has the legal establishment of Christianity been on trial. What have been its fruits ? More or less in all places, pride and indolence in the Clergy ; ignorance and servility in the laity ; in both, superstition, bigotry and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre ; those of every sect, point to the ages prior to its incorporation with Civil policy. Propose a restoration of this primitive state in which its Teachers depended on the voluntary rewards of their flocks ; many of them predict its downfall. On which side ought their testimony to have greatest weight, when for or when against their interest ?

8. Because the establishment in question is not necessary for the support of Civil Government. If it be urged as necessary for the support of Civil Government only as it is a means of supporting Religion, and it be not necessary for the latter purpose, it cannot be necessary for the former. If Religion be not within [the] cognizance of Civil Government, how can its legal establishment be said to be necessary to civil Government? What influence in fact have ecclesiastical establishments had on Civil Society? In some instances they have been seen to erect a spiritual tyranny on the ruins of Civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty, may have found an established clergy convenient auxiliaries. A just government, instituted to secure & perpetuate it, needs them not. Such a government will be best supported by protecting every citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any Sect, nor suffering any Sect to invade those of another.

9. Because the proposed establishment is a departure from that generous policy, which, offering an asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy? Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be, in its present form, from the Inquisition it differs from it only in degree. The one is the first step, the other the last in the career of intolerance. The magnanimous sufferer under this cruel scourge in foreign Regions, must view the Bill as a Beacon on our Coast, warning him to seek some other haven, where liberty and philanthrophy in their due extent may offer a more certain repose from his troubles.

10. Because, it will have a like tendency to banish our Citizens. The allurements presented by other situations are

every day thinning their number. To superadd a fresh motive to emigration, by revoking the liberty which they now enjoy, would be the same species of folly which has dishonoured and depopulated flourishing kingdoms.

11. Because, it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with Religion, has produced amongst its several sects. Torrents of blood have been spilt in the old world, by vain attempts of the secular arm to extinguish Religious discord, by proscribing all difference in Religious opinions. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American Theatre has exhibited proofs, that equal and compleat liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If with the salutary effects of this system under our own eyes, we begin to contract the bonds of Religious freedom, we know no name that will too severely reproach our folly. At least let warning be taken at the first fruits of the threatened innovation. The very appearance of the Bill has transformed that "Christian forbearance,[1] 'love and charity,'" which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded should this enemy to the public quiet be armed with the force of a law?

12. Because, the policy of the bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift, ought to be that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false Religions; and how small is the former! Does the policy of the Bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of [revelation] from coming into the Region of it; and countenances, by example the nations who continue in darkness, in shutting out those who might convey it to them. Instead of

[1] Art. 16. [Note in the original.]

levelling as far as possible, every obstacle to the victorious progress of truth, the Bill with an ignoble and unchristian timidity would circumscribe it, with a wall of defence, against the encroachments of error.

13. Because attempts to enforce by legal sanctions, acts obnoxious to so great a proportion of Citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? and what may be the effect of so striking an example of impotency in the Government, on its general authority.

14. Because a measure of such singular magnitude and delicacy ought not to be imposed, without the clearest evidence that it is called for by a majority of citizens: and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. "The people of the respective counties are indeed requested to signify their opinion respecting the adoption of the Bill to the next Session of Assembly." But the representation must be made equal, before the voice either of the Representatives or of the Counties, will be that of the people. Our hope is that neither of the former will, after due consideration, espouse the dangerous principle of the Bill. Should the event disappoint us, it will still leave us in full confidence, that a fair appeal to the latter will reverse the sentence against our liberties.

15. Because, finally, "the equal right of every citizen to the free exercise of his Religion according to the dictates of conscience" is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the Declaration of those rights which pertain to the good people of Virginia, as the "basis and foundation of Government,"[1] it is enumerated with equal solemnity, or rather studied emphasis. Either then, we must say, that the will of the Legislature is the only measure of their authority; and that in the plenitude of this

[1] Decl. Rights-title. [Note in the original.]

authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred: Either we must say, that they may controul the freedom of the press, may abolish the trial by jury, may swallow up the Executive and Judiciary Powers of the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independant and hereditary assembly: or we must say, that they have no authority to enact into law the Bill under consideration. We the subscribers say, that the General Assembly of this Commonwealth have no such authority: And that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it, this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may on the one hand, turn their councils from every act which would affront his holy prerogative, or violate the trust committed to them: and on the other, guide them into every measure which may be worthy of his [blessing, may re]dound to their own praise, and may establish more firmly the liberties, the prosperity, and the Happiness of the Commonwealth.

TO GENERAL WASHINGTON. WASH. MSS.

RICHMOND Novr 11, 1785.

DEAR SIR,—I rec^d^ your favor of the 29th Ult: on thursday. That by Col. Lee had been previously delivered. Your letter for the Assembly was laid before them yesterday. I have reason to believe that it was received with every sentiment which could correspond with yours. Nothing passed from which any conjecture could be formed as to the objects which would be most pleasing for the appropriation of the fund. The disposition is I am persuaded much stronger to acquiesce in your choice whatever it may

be than to lead or anticipate it; and I see no inconveniency in your taking time for a choice that will please yourself. The letter was referred to a committee which will no doubt make such a report as will give effect to your wishes.

Our Session commenced very inauspiciously with a contest for the chair, which was followed by a rigid scrutiny into Mr. Harrison's election in his county. He gained the chair by a majority of 6 votes and retained his seat by a majority of still fewer. His residence was the point on which the latter question turned. Doct Lee's election was questioned on a similar point, and was also established; but it was held to be vacated by his acceptance of a lucrative post under the United States. The House have engaged with some alacrity in the consideration of the Revised Code prepared by Mr. Jefferson Mr. Pendleton & Mr. Wythe. The present temper promises an adoption of it in substance. The greatest danger arises from its length compared with the patience of the members. If it is persisted in it must exclude several matters which are of moment, but I hope only for the present Assembly. The pulse of the H. of D. was felt on thursday with regard to a general manumission, by a petition presented on that subject. It was rejected without dissent, but not without an avowed patronage of its principle by sundry respectable members. A motion was made to throw it under the table, which was treated with as much indignation on one side as the petition itself was on the other. There are several petitions before the House against

any step towards freeing the Slaves, and even praying for a repeal of the law which licences particular manumissions. The Merchants of several of our Towns have made representations on the distress of our commerce, which have raised the question whether relief shall be attempted by a reference to Cong^{s}, or by measures within our own compass. On a pretty full discussion it was determined by a large majority that the power over trade ought to be vested in Congress, under certain qualifications. If the qualifications suggested & no others should be annexed, I think they will not be subversive of the principle tho' they will, no doubt, lessen its utility. The Speaker, Mr. M. Smith & Mr. Braxton, are the champions against Congress. Mr. Thurston & Mr. White have since come in, and I fancy I may set down both as auxiliaries. They are, however not a little puzzled by the difficulty of substituting any practicable regulations within ourselves. Mr. Braxton proposed two that did not much aid his side of the question: the 1 was that all British vessels from the W. Indies should be excluded from our ports; the 2. that no Merchant should carry on trade here until he s^{d} have been a resident —— years. Unless some plan free from objection can be devised for this State, its patrons will be reduced clearly to the dilemma of acceding to a general one, or leaving our trade under all its present embarrassments. There was some little skirmishing on the ground of public faith, which leads me to hope that its friends have less to fear than was surmised. The Assize & Port Bills have not yet been

awakened. The Senate will make a House to-day for the first time.

With the greatest respect & regard I have the honor to be Dr Sir

Y^r^ Obed^t^ & very ℏble Servt

TO JAMES MADISON. MAD. MSS.

RICH^D^ Novr 18. 1785.

Hon^D^ Sir,—I rc^d^ y^rs^ by Capt. Barbour who I hope will enquire as to Turpin in the land office. I wish you rather to confide such business to friends coming here who can be relied on than to refer it to me. I am so little master of my time and the office is removed so far out of the way that I cannot be relied on. I will endeavor to get the Journals for you soon. The price of Tob^o^ forbids the sale of your Hhd. The Assembly have made some progress in the Revisal, and I hope will go thro' it. Public cred^t^ seems to have more friends and paper money more adversaries than I had expected.—Delegates to Cong^s^ for 1786. R. H. Lee, Wm Grayson J^s^ Monroe, H. Lee Jr. Edwd Carrington Councilor Carter Bratton.

Y^r^ aff^e^ son

J. MADISON JR.

NOTES FOR SPEECH IN THE VIRGINIA HOUSE OF DELEGATES NOVEMBER, 1785.[1]

COMMERCIAL REGULATIONS.

MAD. MSS.

Genl reg^l^ necessary whether the object be to

1. counteract foreign plans

[1] This skeleton of a speech is written, as other speeches are, upon a slip of

2. encourage ships & seamen
3. — — —— manufactures
4. Revenue
5. frugality. [articles of luxury most easily run from State to State]
6. Embargo's in war—case of Delaware in late war.[1]

necessary to prevent contention amg States.

1. Case of French provinces, Neckar says 23,000 patrols employd. agst internal contraband.[2]
2. Case of Massts & Cont
3. Case of N. Y. & N. J.
4. Pa & Delaware
5. Va & Maryd late regulation
6. Irish propositions

necessary to Justice & true Policy

1. Cont & N Hamp:
2. N. J.
3. N. C.
4. Western Country.

Necessary as a system convenient & intelligible to foreigners trading to U. S. Necessary as within reason of federal constitution, the regulation of trade being as impos̃ble by states as peace, war, ambrs &c.

Treaties of com̃erce ineffectual without it

Safe with regd to the liberties of the States.

1. Congs may be trusted with trade as well as war &c
2. power of Treaties involve the danger if any—
3. Controul of States over Congs
4. example of amphyctionic league, achean do. Switzerld, Holland, Germany.

paper in a hand so small that parts of it can hardly be deciphered with the naked eye. An effect of the speech was the adoption by the House of a resolution, that "an act ought to pass to authorize the delegates of this State in Congress to give the assent of the State to a general regulation of the Commerce of the United States, under certain qualifications."

[1] The non-importation agreements of the colonies *before* the Revolution were not entered into by Delaware until some time after the other colonies. See *Life of George Read*, 81.

[2] "*De l'Administration des Finances de la France*" had made its appearance the year before this speech was delivered.

5. peculiar situation of U. S. increase the repellant power of the States. Essential to preserve fed[l] Constitution

1. declension of fed[l] Gov[t].

2. inadequacy to end, must lead states to substitute some other policy no institution remaining long when it ceases to be useful, &c.

3. policy of G. B. to weaken union.

Consequences of dissolution of confederacy. 1. Appeal to sword in every petty squabble. 2. Standing armies beginning with weak & jealous states. 3. perpetual taxes. 4. sport of foreign politics. 5, 6. blast glory of Revolution.

TO GENERAL WASHINGTON. WASH. MSS.

RICHMOND Dec[r] 9, 1785.

DEAR SIR,—Your favor of the 30 Nov[r] was received a few days ago. This would have followed much earlier the one which yours acknowledges had I not wished it to contain some final information relative to the commercial propositions. The discussion of them has consumed much time and though the absolute necessity of some such general system prevailed over all the efforts of its adversaries in the first instance, the stratagem of limiting its duration to a short term has ultimately disappointed our hopes. I think it better to trust to further experience and even distress, for an adequate remedy, than to try a temporary measure which may stand in the way of a permanent one, and confirm that transatlantic policy which is founded on our supposed distrust of Congress and of one another. Those whose opposition in this case did not spring from illiberal animosities towards the Northern States, seem to have been frightened on one side at the idea of a perpetual and irrevocable

grant of power, and on the other flattered with a hope that a temporary grant might be renewed from time to time, if its utility should be confirmed by the experiment. But we have already granted perpetual and irrevocable powers of a more extensive nature than those now proposed and for reasons not stronger than the reasons which urge the latter. And as to the hope of renewal it is the most visionary one that perhaps ever deluded men of sense. Nothing but the peculiarity of our circumstances could ever have produced those sacrifices of sovereignty on which the federal Government now rests. If they had been temporary, and the expiration of the term required a renewal at this crisis, pressing as the crisis is, and recent as is our experience of the value of the confederacy, sure I am that it would be impossible to revive it. What room have we then to hope that the expiration of temporary grants of commercial powers would always find a unanimous disposition in the States to follow their own example. It ought to be remembered too that besides the caprice, jealousy, and diversity of situations, which will be certain obstacles in our way, the policy of foreign nations may hereafter imitate that of the Macedonian Prince who effected his purposes against the Grecian confederacy by gaining over a few of the leading men in the smaller members of it. Add to the whole, that the difficulty now found in obtaining a unanimous concurrence of the States in any measure whatever must continually increase with every increase of their number, and perhaps in a greater ratio, as the Ultramontane States may either

have or suppose they have a less similitude of interests to the Atlantic States than these have to one another.—The propositions however have not yet received the final vote of the House, having lain on the table for some time as a report from the Com^e^ of the whole. The question was suspended in order to consider a proposition which had for its object a meeting of Politico-commercial Comissrs from all the States for the purpose of digesting and reporting the requisite augmentation of the power of Congress over trade. What the event will be cannot be foreseen. The friends of the original propositions are I am told rather increasing, but I despair of a majority, in any event for a longer term than 25 years for their duration. The other scheme will have fewer enemies and may perhaps be carried. It seems naturally to grow out of the proposed appointment of Comsrs for Virg^a^ & Mary^d^ concerted at Mount Vernon, for keeping up harmony in the commercial regulations of the two States. Mary^d^ has ratified the report, but has invited into the plan Delaware & Pen^a^, who will naturally pay the same compliment to their neighbours &c. &c. Besides the general propositions on the subject of trade, it has been proposed that some intermediate measures should be taken by ourselves, and a sort of navigation Act will I am apprehensive be attempted. It is backed by the mercantile interest of most of our towns except Alexandria, which alone seems to have liberality or light on the subject. It was refused even to suspend the measure on the concurrence of Mary^d^ or N. Carolina. This folly

however cannot one would think brave the ruin which it threatens to our Merch^ts^, as well as people at large, when a final vote comes to be given.

We have got thro' a great part of the revisal, and might by this time have been at the end of it had the time wasted in disputing whether it could be finished at this Session been spent in forwarding the work. As it is we must content ourselves with passing a few more of the important bills, leaving the residue for our Successors of the next year. As none of the bills passed are to be in force till Jan^y^, 1787, and the residue unpassed will probably be least disputable in their nature, this expedient, though little eligible, is not inadmissible. Our public credit has had a severe attack and a narrow escape. As a compromise it has been necessary to set forward the half tax till March; and the whole tax of Sepr next till Novr ensuing. The latter postponement was meant to give the planters more time to deal with the Merch^ts^ in the sale of their Tob^o^, and is made a permanent regulation. The Assize bill is now depending. It has many enemies and its fate is precarious. My hopes however prevail over my apprehensions. The fate of the Port bill is more precarious. The failure of an interview between our Comssrs and Comssrs on the part of N. Carolina has embarrassed the projected Canal between the waters of the two States. If N. C. were entirely well disposed the passing an Act suspended on & referred to her legislature would be sufficient, and this course must I suppose be tried, though previous negociation would have promised more certain

success.—Kentucky has made a formal application for independence. Her memorial has been considered and the terms of separation fixed by a Com^e^ of the whole. The substance of them is that all private rights & interests derived from the laws of Virginia shall be secured that the unlocated lands shall be applied to the objects to which the laws of V^a^ have appropriated them—that nonresidents shall be subjected to no higher taxes than residents—that the Ohio shall be a co^m^on highway for Citizens of the U. S. and the jurisdiction of Kentucky & Virg^a^, as far as the remaining territory of the latter will lie thereon, be concurrent only with the new States on the opposite Shore—that the proposed State shall take its due share of our State debts—and that the separation shall not take place unless these terms shall be approved by a Convention to be held to decide the question, nor untill Cong^s^ shall assent thereto, and fix the terms of their admission into the Union. The limits of the proposed State are to be the same with the present limits of the district. The apparent coolness of the Representatives of Kentucky as to a separation since these terms have been defined indicates that they had some views which will not be favored by them. They disliked much to be hung up on the will of Congress.

I am Dr Sir with the highest esteem and unfeigned regard Y^r^ Obed^t^ & hbl^e^ Servt

TO JAMES MONROE. MAD. MSS.

RICHD, Decr 9, 1785.

DEAR SIR,—Supposing that you will be at New York by the time this reaches it I drop a few lines for the post of to-day. Mr Jones tells me he informed you that a substitute had been brought forward to the commercial propositions which you left on the carpet. The subject has not since been called up. If any change has taken place in the mind of the House, it has not been unfavorable to the idea of confiding to Congress a power over trade. I am far from thinking however that a perpetual power can be made palatable at this time. It is more probable that the other idea of a Convention of Commissrs from the States for deliberating on the state of commerce and the degree of power which ought to be lodged in Congress, will be attempted. Should it fail in the House, it is possible that a revival of the printed propositions with an extension of their term to twentyfive years, will be thought on by those who contend that something of a general nature ought to be done. My own opinion is unaltered. The propositions for a State effort have passed and a bill is ordered in, but the passage of the bill will be a work of difficulty & uncertainty; many having acquiesced in the preliminary stages who will strenuously oppose the measure in its last stages. No decisive vote has been yet taken on the Assize bill. I conceive it to be in some danger, but that the chance is in its favour. The case of the British debts will be introduced in a day or two. We have got through more than half

of the Revisal. The Criminal bill has been assailed on all sides. Mr Mercer has proclaimed unceasing hostility against it. Some alterations have been made & others probably will be made, but I think the main principle of it will finally triumph over all opposition. I had hoped that this Session wd have finished the code, but a vote agst postponing the further consideration of it till the next, was carried by so small a Majority that I perceive it will be necessary to contend for nothing more than a few of the more important bills leaving the residue of them for another year. My proposed amendment to the report on the Memorial of Kentucky, was agreed to in a Comittee of the whole without alteration, and with very few dissents. It lies on the table for the ratification of the House. The members from that district have become extremely cold on the subject of an immediate separation. The half tax is postponed till March & the Septr tax till Novr next. Not a word has passed in the House as to a paper emission. I wish to hear from you on your arrival at N. Y. and to receive in particular whatever you may be at liberty to disclose with regard to the Treaty of peace, &c with G. B. Mr Jones wishes you to accept this as on his acct as well as mine. he sent C. Griffins order on the bank by the last post and hopes you recd it at Fredg Col. Grayson will no doubt have left you. I have omitted for some time writing to him on a supposition that I should be too late.

I am Dr Sir

Yrs affely

TO AMBROSE MADISON.[1]

RICHMOND, Decr. 15, 1785

D^r. BRO^R.—I wrote to my father a day or two ago by Col: Burnley to which I refer. The principal step since taken by the H. of Delegates has been the rejection of a bill on which the assize scheme depended. The majority consisted of 63 ag^st. 49. Yesterday the vote of the Speaker decided in the affirmative a resolution to repeal the act which permits masters to free their slaves.[2] I hope the bill which must follow on the subject may be less successful. Many who concurred in the Resolution will probably be content finally with some amendment of the law in

[1] From the New York Public Library (Lenox) MSS. A copy of the letter was printed in the *Nation* July 19, 1894.

[2] The act was passed at the May session, 1782, of the General Assembly: "Whereas application hath been made to this present general assembly, that those persons who are disposed to emancipate their slaves may be empowered so to do, and the same hath been judged expedient under certain restrictions: *Be it therefore enacted*, That it shall hereafter be lawful for any person, by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, attested and proved in the county court by two witnesses, . . . to emancipate and set free, his or her slaves, or any of them, who shall thereupon be entirely and freely discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this act."—Hening's *Statutes at Large*, xi, 39.

Jacob Read, of South Carolina, wrote to Madison from Congress August 29, 1785: "An opinion prevails in South Carolina that the principal holders of Slaves in your State wish to divest themselves of that kind of property and that tolerable good purchases might be made on good Security being given for payments by installments with a regular discharge of the Interest.

"Under the Impression of this opinion the Hon^le. M^r. J. Rutledge of S^o. Carolina has addressed a Letter to me wishing to become engaged in any purchase I may be able to make, & to make a joint concern. . . . My present application to you is to request you to inform me if you know of any such persons as may wish to sell a gang of Hands & the Terms on which they might be had. . . . We want! Greatly want!! the assistance of your abilities & Experience in Congress."—*Mad. MSS.*

favor of creditors. Should it prove otherwise this retrograde step with regard to an emancipation will not only dishonor us extremely but hasten the event which is dreaded by stimulating the efforts of the friends to it. The residue of the Revisal from No. 65 will be put off, except the Religious Bill and a few others. Leave was given yesterday for a bill in favor of British Creditors, but not without proofs that it will be opposed in every stage of its progress thro' the House. The price of Tob^o^ is not much, if at all changed. . . .

TO JAMES MONROE. MAD. MSS.

RICHMOND, Decr 17, 1785

DEAR SIR,—Since my last by the preceding post the fate of the assize laws has been determined by a negative in the H. of Delegates on the Bill on which its execution depended. The majority consisted of 63 ag^st^ 49. A reform of the County Courts is the substitute proposed by the adversaries of the Assize, and if it can be put into any rational shape will be received by the other side as auxiliary to the Assize plan which may be resumed at another Session. It is surmised that the Senate will not part with this plan in any event, and as the law passed at the last Session, unless repealed or suspended, stops the proceedings of the Genl Court after the 1st day of Jany A bill must be sent to the Senate which will give them an opportunity of proposing some amendment which may revive the question at the present Session.

Our progress in the Revisal has been stopped by the waste of time produced by the inveterate and prolix opposition of its adversaries, & the approach of Christmas. The Bill proportioning crimes & punishments was the one at which we stuck after wading thro' the most difficult parts of it. A few subsequent bills however were excepted from the postponement. Among these was the Bill for establishing Religious freedom, which has got thro' the H. of Delegates without alteration, though not without warm opposition. Mr. Mercer & Mr. Corbin were the principal Combatants against it. Mr. Jones is well. With sincerity, I am

Y^r^ aff^e^ friend.

TO JAMES MONROE. MAD. MSS.

RICHMOND, Decr 24, 1785.

DEAR SIR,—The proceedings of the Assembly since my last, dated this day week have related 1. to the Bill for establishing Religious freedom in the Revisal. 2. a Bill concerning British debts. 3. a Bill concerning the Proprietary interest in the Northern Neck. 4. for reforming the County Courts. The first employed the H. of Delegates several days; The preamble being the principal subject of contention. It at length passed without alteration. The Senate I am told have exchanged after equal altercation, the preamble of the revisal for the last clause in the Declaration of Rights; an exchange wc^h^ was proposed in the H. of D. and negatived by a considerable

majority. I do not learn that they have made or will make any other alteration. The Bill for the payment of British debts is nearly a transcript of that which went thro' the two Houses last year, except that it leaves the periods of instalment blank, and gives the Creditor an opportunity of taking immediate execution for the whole debt, if the debtor refuses to give security for complying with the instalments. The Bill was near being put off to the next Session on the second reading. A majority were for it, but having got inadvertently into a hobble, from the manner in which the question was put, the result was that Monday next should be appointed for its consideration. The arrival & sentiments of Col: Grayson will be favorable to some provision on the subject. A clause is annexed to the Bill, authorising the Executive to suspend its operation, in case Cong^{s} shall signify the policy of so doing. The general cry is that the Treaty ought not to be executed here until the posts are surrendered, and an attempt will be made to suspend the operation of the Bill on that event or at least on the event of a positive declaration from Cong^{s} that it ought to be put in force. The last mode will probably be fixed on, notwithstanding its departure from the regular course of proceeding, and the embarrassment in which it may place Congress.

The bill for reforming the County Courts proposes to select five Justices, who are to sit quarterly, be paid scantily, and to possess the Civil Jurisdiction of the County Courts, and the Criminal jurisdiction of

the Gen! Court under certain restrictions. It is meant as a substitute for the Assize system, to all the objections against which it is liable, without possessing its advantages. It is uncertain whether it will pass at all or what form it will finally take. I am inclined to think it will be thrown out. The Bill relating to the N. Neck passed the H. of D. yesterday. It removes the records into the Land office here, assimilates locations of surplus land to the general plan, and abolishes the Quitrent. It was suggested that the latter point was of a judiciary nature, that it involved questions of fact, of law, and of the Treaty of peace, and that the Representatives of the late proprietor ought at least to be previously heard according to the request of their Agent. Very little attention was paid to these considerations, and the bill passed *almost* unanimously. With sincere affection

I am your friend & serv!

TO JAMES MADISON. MAD. MSS.

RICHMOND Dec! 24. 1785.

My last informed you of the miscarriage of the Assize scheme. It has been followed with an attempt to reform the County Courts, which will probably end in the appointment of four months in which the Courts shall be confined to Docket business & compelled to dispatch it. A Bill is depending for the payment of British debts, nearly on the model of that which fell thro' last year. It is extremely grating and will be rejected unless the prospect of an

accomodation with G. B. on the subject of the posts & the negroes, or the apprehensions of being saddled with worse terms by delay, should overcome the disinclination. The port bill has not been yet taken up. It will be severely attacked. We have a variety of orders of the day which will consume time, and other bills are to be brought in. Of course the end of the Session is remote, unless impatience should produce the same effect as a conclusion of the business. The petition of the little fork has been justly rejected, by a general vote. I have not yet disposed of your Tob^{o} The price has not latterly exceeded I believe four dollars, and I am told to day that 20/1, is talked of. I have never yet had it in my power to make the enquiries at the land office, or to get out your patents. Capt. Barbour tells me he has been there and could not get the information relative to Turpin without a knowledge of some dates which you have not mentioned to him or to me. If you have any unliquidated claims agst the U. S. that can be settled by the Comiss^{s} before the 1st day of Jany or loan office certificates issued from the Con^{t} officer here the interest up to Decr 1782 will be paid at the Treas^{y} in specie. Let this circumstance be known if you please, tho' I suppose it will be too late. It may be of the less consequence, as such warrants for interest will in future be receivable in taxes. The Quitrents for the Northern Neck are abolished by a bill which is gone up to the Senate. The Bill for establishing Religious freedom passed the H. of Delegates as it stands in the Revised Code. The Senate have

disagreed to the preamble and substituted the last Article of the Declaration of Rights. Which house is to recede, is uncertain. Both are much attached to their respective ideas. Capt: Barbour tells me Payne has engaged his brother J^s^ B. to pay the money due to you. I wish you could let Maj^r^ Moore have about £18 of it, the amount of his interest on the certificate obtained from Dunscomb by Mr Hubbard Taylor, & left with me. Let me know whether such an arrangement will be practicable. Be kind eno' also to let Capt. Walker & my brother F. know that I am called on for their balances to the Steward of Hampden Sidney by a man here who has an order on me for them. present my regards to the family and believe me to be your Affec^n^ son—

TO JAMES MADISON. MAD. MSS.

RICHMOND Decr 27, 1785

HON^D^ SIR,—Mr J^s^ Davis has just handed your favor of the 24. inst. It is too late to revise the proceedings relative to the Trustees of Beverley. The Act authorizes the Comssrs who are to settle your accounts to make a reasonable allowance for your trouble. I cannot get a copy of the act without paying the £10. Capt. P. Barbour will inform you of Dean's answer to his application. He carried a letter from me giving you an acct. of the latest proceedings of the Assembly. Nothing of consequence has been done since. It is uncertain when we shall rise. If an opportunity should offer, I shall be glad of the fresh butter at all events.

I am with best regards to ye family y^r^ aff^t^ son.

TO JAMES MONROE. MAD. MSS.

RICHMOND Decr 30, 1785.

DEAR SIR,—The past week has been rendered important by nothing but some discussions on the subject of British debts. The bill brought in varied from that which miscarried last year 1. by adding provision in favor of the Creditors for *securing* payment at the dates of the instalments 2. by annexing a clause empowering the Executive to suspend the operation of the Act in case Congress should notify their wish to that effect. Great difficulty was found in drawing the House into Comte on the subject. It was at length effected on Wednesday. The changes made in the Bill by the Comittee are 1. striking out the clause saving the Creditors from the act of limitation which makes the whole a scene of Mockery—2. striking out the provision for securities—3. Converting the clause authorizing Cong^s to direct a suspension of the Act into a clause suspending it, untill Cong^s should notify to the Executive that G. B. had complyed with the Treaty on her part, *or that they were satisfied with the steps taken by her for evacuating the posts, paying for Negroes and for a full compliance with the Treaty.* The sentence underlined was proposed as an amendment to the amendment and admitted by a very small majority only. 4. exonerating the public from responsibility for the payments into the Treasury by British debtors beyond the real value of the liquidated paper. Since these proceedings of the Committee of the whole, the subject has

slept on the table, no one having called for the report. Being convinced myself that nothing can be now done that will not extremely dishonor us, and embarrass Cong^{s}, my wish is that the report may not be called for at all.

In the course of the debates no pains were spared to disparage the Treaty by insinuations agst Cong^{s}, the Eastern States, and the negociators of the Treaty, particularly J. Adams. These insinuations & artifices explain perhaps one of the motives from which the augmention of the fœderal powers & respectability has been opposed. The Reform of the County Courts has dwindled into directions for going thro' the docket quarterly, under the same penalties as now oblige them to do their business monthly. The experiment has demonstrated the impracticability of rendering these courts fit instruments of Justice; and if it had preceded the Assize Question would I think have ensured its success. Some wish to renew this question in a varied form, or at least under a varied title; but the Session is too near its period for such an attempt. When it will end I know not. The business depending w^{d} employ the House till March. A system of navigation and commercial regulations for this State alone is before us and comprises matter for a month's debate. The Compact with Mary^{d} has been ratified.[1] It was proposed to submit it to

[1] Aug. 9, 1785, George Mason wrote from Gunston Hall to Madison, enclosing for his inspection a copy of his and Henderson's report to the Legislature and of the joint letter to the government of Pennsylvania of the Virginia and Maryland commissioners.

January 13, 1786, the Virginia General Assembly agreed that duties on ex-

Cong^{s} for their sanction, as being within the word *Treaty* used in the Confederation. This was opp^{d}. It was then attempted to transmit it to our Delegates to be by them simply laid before Cong^{s} Even this was negatived by a large Majority. I can add no more without risking the opportunity by the post except that I remain Y^{r} affe^{c} friend

CHURCH ESTABLISHMENT. MAD. MSS.

TO THE HONBLE THE SPEAKER & GENTLEMEN THE GENERAL ASSEMBLY OF VIRGINIA. (1786.)[1]

We the subscribers members of the protestant episcopal Church claim the attention of your honourable Body to our objections to the law passed at the last Session of Assembly for incorporating the protestant Episcopal church; and we remonstrate against the said law—

ports and imports should be the same in Virginia and Maryland, and that commissioners from the two States should meet annually to arrange the schedules—*Journal of the House of Delegates.*

[1] The petition is in Madison's handwriting.

June 3, 1784, a memorial from the Protestant Episcopal Church in Virginia was presented in the House of Delegates stating that the church labored under disadvantages because of several laws directing the modes of worship, and requesting the repeal of such acts; "that an act may pass, to incorporate the Protestant Episcopal Church in Virginia, to enable them to regulate all the spiritual concerns of that Church, alter its form of worship, and constitute such canons, by-laws and rules for the government and good order thereof, as are suited to their religious principles; and in general that the Legislature will aid and patronize the Christian religion." This was referred to the Committee on Religion, of which Madison was himself a member; but he was opposed to the views of the majority of his colleagues. On June 8 Carey reported that the memorial seemed to the committee to be reasonable. The bill for the incorporation of the Protestant Episcopal Church was read the second time June 16, and after modification to a less objectionable form passed at the next session of the Assembly. (*See Journal of the House of Delegates.*) Madison himself voted for it, as a strategic movement, to ward off action on the more important bill for religious assessments. The act contained twelve sections, providing that the "Minister and vestry of the Protestant Episcopal Church"

Because the law admits the power of the Legislative Body to interfere in matters of Religion which we think is not included in their jurisdiction.

Because the law was passed on the petition of some of the Clergy of the Protestant Episcopal Church without any application from the other members of that Church on whom the law is

should, under that name, constitute a body politic and corporate in the respective parishes, and should forever enjoy all glebe lands already purchased, churches, burying-grounds, etc., belonging to them, "and every other thing the property of the late established church." In the proceedings of the ministers and vestries all matters were to be decided by a majority vote. They had full power and authority to purchase and enjoy lands, etc. In whatever parishes ministers and vestrymen wished to form a body corporate under the act, it was lawful for any two members of the church to call together the other members in the parish and elect twelve church members, to form a vestry and with the minister of the church were authorized to regulate all its religious concerns, doctrine, discipline and worship. (Hening's *Statutes at Large*, *11*, *532*).

Beginning with the session of the Assembly in the Autumn of 1786 petitions to repeal the act began to pour in, and also a smaller number against the repeal (*Journal of the House of Delegates*, *Oct. 31*, *Nov. 1*, *Nov. 6*, *Nov. 9*, *Nov. 10*, *Nov. 17*, *Nov. 24*, *Dec. 4*, *Dec. 5*, *Dec. 7*.) The act of repeal was finally passed Jan. 10, 1787. (Hening's *Stats. at Large*, *12*, *266*.)

Rev D[r] John B. Smith, of Hampden-Sidney College, a Presbyterian, wrote to Madison under date June 21, 1784 :

"Since my arrival at home, I have seen a part of your Journals, & by them have learned the objects of the Petition from the Episcopal Clergy, which in one or two instances, appear to me very exceptionable. The first part of their prayer is necessary & proper; & the whole of it might pass without much animadversion to its disadvantage, 'till you hear them requesting that 'they, the Clergy, may be incorporated by law'; & then an attentive mind must revolt against it as very unjustifiable, & very insulting to the members of their communion in general. Had they requested that an incorporating act should pass, in favour of that Church as a party of Christians, whereby the *people* might have had a share in the direction of ecclesiastical regulations, & the appointment of Church officers for that purpose, it would have been extremely proper. But as the matter now stands, the clergy seem desirous to exclude *them* from any share in such a privilege & willing to oblige the members of their Churches to sit down patiently, under such regulations as an incorporated body of Clergymen, who wish to be peculiarly considered as ministers in the view of the law, shall chuse to make, without a legal right to interpose in any manner, but such as these spiritual leaders may think fit to allow. * * * * * *

"But that part of the petition, which concerns me most as well as every non-Episcopalian in the state, is, where these Clergymen pray for an act of the

to operate, and we conceive it to be highly improper that the Legislature should regard as the sense of the whole Church the opinion of a few interested members who were in most instances originally imposed on the people without their consent & who were not authorized by even the smallest part of this community to make such a proposition.

Because the law constitutes the Clergy members of a convention who are to legislate for the laity contrary to their fundamental right of chusing their own Legislators.

Because by that law the most obnoxious & unworthy Clergyman cannot be removed from a parish except by the determination of a body, one half of whom the people have no confidence in & who will always have the same interest with the minister whose conduct they are to judge of.

Because—by that law power is given to the convention to regulate matters of faith & the obsequious vestries are to engage to change their opinions as often as the convention shall alter theirs.

Because a system so absurd and servile will drive the members of the Episcopal Church over to the Sects where there will be more consistency & liberty.

We therefore hope that the wisdom & impartiality of the present assembly will incline them to repeal a law so pregnant with mischief & injustice.

TO THOMAS JEFFERSON. MAD. MSS.

RICHMOND, Jan. 22d, 1786.

DEAR SIR,—My last dated Novr 15th, from this place answered yours of May 11th, on the subject of your printed notes.[1] I have since had opportunities of consulting other friends on the plan you propose, who concur in the result

Assembly to ENABLE, them to regulate all the spiritual concerns of that Church &c. This is an express attempt to draw the State into an illicit connexion & commerce with them, which is already the ground of that uneasiness which at present prevails thro' a great part of the State. According to the spirit of that prayer, the Legislature is to consider itself as the head of that Party, & consequently they as members are to be fostered with particular care."

Mad. MSS.

[1] "On my return to Orange I found the copy of your Notes brought along

of the consultations which I transmitted you. Mr. Wythe's idea seems to be generally approved, that the copies destined for the University should be dealt out by the discretion of the Professors, rather than indiscriminately and at once put into the hands of the students, which, other objections apart, would at once exhaust the Stock. A vessel from Havre de Grace brought me a few days ago two Trunks of Books, but without letter or catalogue attending them. I have forwarded them to Orange without examining much into the contents, lest I should miss a conveyance which is very precarious at this season, and be deprived of the amusement they promise me for the residue of the winter.

Our Assembly last night closed a Session of 97 days, during the whole of which except the first seven, I have shared in the confinement. It opened with a very warm struggle for the chair between Mr Harrison & Mr Tyler which ended in the victory of the former by a majority of 6 votes. This victory was shortly afterwards nearly frustrated by an impeachment of his election in the County of Surry. Having failed in his native County of Charles City, he abdicated his residence there, removed into the County of Surry where he had an estate, took every step which the interval would admit, to constitute himself an inhabitant, and was in consequence elected a representative. A charge of non-residence was nevertheless brought against him, decided agst him in the com^{ittee} of privileges by the casting vote of the Chairman, and reversed in the House by a very small majority. The election of Doc^{r} Lee was attacked on two grounds. 1st, of non-residence, 2dly, of holding a lucrative office under Cong^{s}, on the 1st he was acquitted, on the 2^{d}, expelled, by a large majority. The revised Code was brought forward pretty early in the Session. It was first referred to Com^{e} of C^{ts} of Justice, to report such of the bills as were not of a temporary nature, and on their report committed to com^{tee} of the whole. Some difficulties were raised as to the proper mode of proceeding, and some opposition made to the work itself. These however being surmounted, and three days in each week appropriated to the task, we went on slowly but successfully, till we arrived at the bill concerning crimes and punishments. Here the adversaries of the Code exerted their whole force, which being abetted by the impatience of its friends in an advanced stage of the Session, so far prevailed that the farther prosecution of the work was postponed till the next Session. The operation of the bills passed is suspended until the beginning of 1787 so that if the Code s^{d} be resumed by the next Assembly and finished early

with it by Mr. Doradour. I have looked them over carefully myself & consulted several judicious friends in confidence. We are all sensible that the *freedom of your strictures* on some *particular measures* and *opinions will displease their respective abettors*. But we equally concur in thinking that this consideration ought not to be weighed against the *utility of your plan*. We think both the facts and remarks which you have assembled too *valuable* not to be made known, at least to those for whom *you destine* them, and speak of them to *one another* in *terms which* I must *not repeat to you*."—Madison to Jefferson, November 15, 1785. *Mad. MSS.*

in the Session, the whole system may commence at once. I found it more popular in the Assembly than I had formed any idea of, and though it was considered by paragraphs and carried through all the customary forms, it might have been finished at one Session with great ease, if the time spent on motions to put it off and other dilatory artifices had been employed on its merits. The *adversaries were* the *Speaker*, *Thruston*, and *Mercer*, who *came late in the Session into a vacancy left by* the *death of Col. Brent, of Stafford*, and *contributed principally to the mischief.*[1] The titles in the enclosed list will point out to you such of the bills as were adopted from the Revisal. The alterations which they underwent are too numerous to be specified, but have not materially vitiated the work. The bills passed over were either temporary ones, such as being not essential as parts of the system may be adopted at any time and were likely to impede it at this, or such as have been rendered unnecessary by Acts passed since the epoch at which the revisal was prepared. After the completion of the work at this Session was despaired of it was proposed and decided that a few of the bills following the bill concerning crimes and punishments should be taken up as of peculiar importance. The only one of these which was pursued into an Act is the Bill concerning Religious freedom. The steps taken throughout the Country to defeat the Gen[l] Assessment had produced all the effect that could have been wished. The table was loaded with petitions and remonstrances from all parts against the interposition of the Legislature in matters of Religion. A general convention of the Presbyterian church prayed expressly that the bill in the Revisal might be passed into a law, as the best safeguard short of a Constitutional one, for their religious rights. The bill was carried thro' the H. of Delegates, without alteration. The Senate objected to the preamble, and sent down a proposed substitution of the 16th art: of the Declaration of Rights. The H. of D. disagreed. The Senate insisted, and asked a Conference. Their objections were frivolous indeed. In order to remove them as they were understood by the Managers of the H. of D. The preamble was sent up again from the H. of D. with one or two verbal alterations. As an amendment to these the Senate sent down a few others, which as they did not affect the substance though they somewhat defaced the composition, it was thought better to agree to than to run further risks, especially as it was getting late in the Session and the House growing thin. The enacting clauses past without a single alteration, and I flatter myself have in this country extinguished forever the ambitious hope of making laws for the human mind.

Acts not included in the Revisal.

For the naturalization of the Marquis de la fayette. This was brought forward by Col: Henry Lee Jr., and passed without opposition. It recites his merits towards this Country, and constitutes him a Citizen of it.

To amend the act vesting in The donation presented to Gen[l] W embarrassed him much, on one side, he disliked the appearance of slighting the bounty of his

[1] The portions of the letter printed in italics are in cypher in the original.

Country and of an ostentatious disinterestedness, on the other, an acceptance of reward in any shape was irreconcileable with the law he had imposed on himself. His answer to the Assembly declined in the most affectionate terms the emolument alloted to himself, but intimated his willingness to accept it so far as to dedicate it to some public and patriotic use. This Act recites the original act & his answer, and appropriates the future revenue from the shares to such public objects as he shall appoint. *He has been pleased* to *ask my* ideas with regard to the *most proper objects. I suggest, in* general only, a *partition of the fund between* some *institution* which would *please the philosophical world*, and some other which may be of a *popular cast.* If your knowledge of the *several institutions in France* or *elsewhere* should suggest *models or hints, I could wish for your ideas* on the *case, which* no less *concern the good of the Commonwealth than the character of its most illustrious citizen.*

Genl. Washington certain shares in the River Companies.

Some of the malefactors consigned by the Executive to labour, brought the legality of such pardons before the late Court of Appeals who adjudged them to be void. This Act gives the Executive a power in such cases for one year. It passed before the bill in the revisal on this subject was taken up, and was urged against the necessity of passing it at this Session. The expiration of this act at the next Session will become an argument on the other side.

An act empowering the Governor & Council to grant conditional pardons in certain cases.

This Act empowers the Executive to confine or send away suspicious aliens, on notice from Cong^{s} that their sovereigns have declared or commenced hostilities agst the U. S., or that ye latter have declared War agst such sovereigns. It was occasioned by the arrival of two or three Algerines here, who, having no apparent object, were suspected of an unfriendly one. The Executive caused them to be brought before them, but found themselves unarmed with power to proceed. These adventurers have since gone off.

An act giving powers to the Governor and Council in certain cases.

Abolishes the quitrent, and removes the papers to the Register's office.

Act for safe keeping land papers of the Northern Neck.

Requires them to clear their dockets quarterly. It amounts to nothing and is chiefly the result of efforts to render Courts of Assize unnecessary.

Act for reforming County Courts.

The latter act passed at the last Session required sundry supplemental regulations to fit it for operation, an attempt to provide these which involved the merits of the innovation drew forth the united exertions of its adversaries. On the question on the supplemental bill they prevailed by 63 votes agst 49. The best that could be done in this situation was to suspend instead of repealing the original act, which will give another chance to our successors for introducing the proposed reform. The various interests opposed to it, will never be conquered without considerable difficulty.

Act to suspend the operation of the Act establishing Courts of Assize.

Resolution proposing a general meeting of comrs from the States to consider and recommend a fœderal plan for regulating coerce, and appointg as Comrs from Va, Ed Randolph, Js Madison, Jr., Walter Jones, St G. Tucker, M. Smith, G. Mason, & David Ross, who are to communicate the proposal & suggest time & place of meeting.

The necessity of harmony in the comercial regulations of the States has been rendered every day more apparent. The local efforts to counteract the policy of G. B., instead of succeeding, have in every instance recoiled more or less on the States which ventured on the trial. Notwithstanding these lessons, the Merchts of this State, except those of Alexandria and a few of the more intelligent individuals elsewhere, were so far carried away by their jealousies of the Northern Marine as to wish for a navigation Act confined to this State alone, In opposition to those narrow ideas the printed proposition herewith inclosed was made. As printed, it went into a Commte of the whole. The alterations of the pen shew the state in which it came out. Its object was to give Congs such direct power only as would not alarm, but to limit that of the States in such manner as wd indirectly require a conformity of the plans of Congs. The renunciation of the right of laying duties on imports from other States, would amount to a prohibition of duties on imports from foreign Countries, unless similar duties existed in other States. This idea was favored by the discord produced between several States by rival and adverse regulations. The evil had proceeded so far between Connecticut and Masstts that the former laid heavier duties on imports from the latter than from G. B., of which the latter sent a letter of complaint to the Executive here and I suppose to the other Executives. Without some such self-denying compact it will, I conceive be impossible to preserve harmony among the contiguous States. In the Comittee of the whole the proposition was combated at first on its general merits. This ground was however soon changed for that of its perpetual duration, which was reduced first to 25 years, then to 13 years. *Its adversaries* were the *Speaker*, *Thruston*, *and Corbin ; they* were *bitter and illiberal against Congress* & the *Northern States* beyond *example Thruston* considered it as problematical, whether it would not be better to *encourage the British than the Eastern marine Braxton* and *Smith* were in the same *sentiments*, but *absent at* this *crisis of the question*. The limitation of the plan to 13 years so far destroyed its value in the judgment of its friends that they chose rather, to do nothing than to adopt it in that form. The report accordingly remained on the table uncalled for to the end of the Session. And on the last day the resolution above quoted was substituted. It had been proposed by Mr. Tyler immediately after the miscarriage of the printed proposition, but was left on the table till it was found that Several propositions for regulating our trade without regard to other States produced nothing. In this extremity The resolution was generally acceded to, not with the *opposition of Corbin &a Smith*. The Comssrs *first named were the Attorney*, *Dr Jones*, and *myself*. In the House of D., *Tucker and Smith were added*, *and* in the Senate, *Mason*, *Ross*, and *Ronald*. The *last does not undertake*.

The port bill was attacked and nearly defeated, an amendatory bill was passed with difficulty thro' the H. of D., and rejected in the Senate. The original one will take effect before the next Session, but will probably be repealed then. It would have been repealed at this, if its adversaries had known their strength in time and exerted it with Judgment.

A Bill was brought in for paying British debts but was rendered so inadequate to its object by alterations inserted by a Comitte of the whole that the patrons of it thought it best to let it sleep.

Several petitions (from Methodists chiefly) appeared in favor of a gradual abolition of slavery, and several from another quarter for a repeal of the law which licences private manumissions. The former were not thrown under the table, but were treated with all the indignity short of it. A proposition for bringing in a Bill conformably to the latter, was decided in the affirmative by the casting voice of the Speaker; but the bill was thrown out on the first reading by a considerable majority.

A considerable itch for paper money discovered itself, though no overt attempt was made. The partisans of the measure, among whom Mr. M. S[1] may be considered as the most zealous, *flatter themselves*, and *I fear upon too good ground, that* it will be *among the measures of the next session.* The unfavorable balance of trade and the substitution of facilities in the taxes *will have dismissed the little specie remaining among us* and strengthened the common *argument for a paper medium.*

Act for postponing the tax of the present year and admitting facilities in payment.

This tax was to have been collected in Sep[r] last, and had been in part actually collected in specie. Notwithstanding this and the distress of public credit, an effort was made to remit the tax altogether. *The party was headed by Braxton, who was courting an appointment into the council.* On the question for a third reading, the affirmative was carried by 52 ag[st] 42. On the final question, a vigorous effort on the negative side with a reinforcement of a few new members, threw the bill out. The victory however was not obtained, without subscribing to a postponement instead of remission, and the admission of facilities instead of Specie. The postponement too extends not only to the tax which was under collection, and which will not now come in till May, but to the tax of Sep[r] next which will not now be in the Treasury till the beginning of next year. The wisdom of seven Sessions will be unable to repair the mischiefs of this single act.

Act concerning the erection of Kentucky into an independent State.

This was prayed for by a memorial from a Convention held in Kentucky, and passed without opposition. It contains stipulations in favor of territorial rights held under the laws of Vir[a], and suspends the actual separation on the decision of a Convention authorized to meet for that purpose, and on the assent of Congress. The boundary of the proposed State is to remain the same as the present boundary of the district.

[1] Meriwether Smith.

Act to amend the Militia law.

At the last Session of 1784 and act passed displacing all the militia officers, and providing for the appointmt of experienced men. In most counties it was carried into execution, and generally much to the advantage of ye militia. In consequence of a few petitions agst the law as a breach of the Constitution, this act reverses all the proceedings under it, and reinstates the old officers.

Act to extend the operation of the Escheat law to the Northern Neck.

From the peculiar situation of that district the Escheat law was not originally extended to it. Its extension at this time was occasioned by a bill brought in by Mr. Mercer for seizing and selling the deeded land of the late lord Fairfax on the ground of its being devised to aliens, leaving them at liberty indeed to assert their pretensions before the Court of Appeals. As the bill however stated the law & the fact, and excluded the ordinary inquest, in the face of pretensions set up even by a Citizen, (Martin,) to whom it is said the reversion is given by the will, it was opposed as exerting at least a Legislative interference in and improper influence on the Judiciary question. It was proposed to substitute the present act as an amendmt to the bill in a Committee of the whole which was disagreed to. The bill being of a popular cast went thro' the H. of D. by a great majority. In the Senate it was rejected by a greater one, if not unanimously. The extension of the escheat law was, in consequence, taken up and passed.

"Act for punishing certain offences."

to wit, attempts to dismember the State without the consent of the Legislature. It is pointed agst the faction headed by A. C[ampbell], in the County of Washington.

Act for amending the appropriating Act.

Complies with the requisition of Congs for the present year, to wit: 1786. It directs 512,000 dollars, the quota of this State, to be paid before May next the time fixed by Congress, *altho' it is known* that *the postponement* of the *taxes renders the payment of a shilling impossible.* Our payments last year *gained us a little* reputation. Our conduct *this must stamp us with ignominy.*

Act for regulating the Salaries of the Civil list.

Reduces that of the Govrs from £1,000 to £800, & the others some at a greater and some at a less proportion.

Act for disposing of waste lands on Eastern waters.

Meant chiefly to affect vacant land in the Northern Neck, erroneously conceived to be in great quantity and of great value. The price is fixed at £25 per Hundred acres, at which not an acre will be sold.

An act imposing addl tonnage on British vessels.

Amounting in the whole to 5 *s.* per ton.

Nothing has been yet done with N. C. towards opening a Canal thro the Dismal. The powers given to Commsrs on our part are renewed, and some negociation will be brought about if possible. A certain interest in that State is suspected of being disinclined to promote the object, notwithstanding its manifest importance to the community at large. On Potowmack they have been at work some time. On this river they have about eighty hands ready to break ground, and have engaged a man to plan for them. I fear there is a want of skill for the undertaking that threatens a waste of labour and a discouragement to the enterprize. I do not learn that any measures have been taken to procure from Europe the aid which ought to be purchased at any price, and which might I should suppose be purchased at a moderate one.

I had an opportunity a few days ago of knowing that Mrs Carr and her family, as well as your little daughter, were well. I am apprehensive that some impediments still detain your younger nephew from his destination. Peter has been in Williamsburg, and I am told by Mr. Maury that his progress is satisfactory. He has read, under him, Horace, some of Cicero's Orations, Greek testament, Æsop's fables in Greek, ten books of Homer's Iliad, & is now beginning Xenophon, Juvenal, & Livy. He has also given some attention to French.

I have paid le Maire ten guineas. He will set out in about three weeks I am told for France. Mr. Jones has promised to collect & forward by him all such papers as are in print and will explain the situation of our affairs to you. Among these will be the most important acts of the Session, & the Journal as far as it will be printed.

Mr Wm Hays in sinking a well on the declivity of the Hill above the proposed seat of the Capitol and nearly in a line from the Capitol to Belvidere, found about seventy feet below the surface, several large bones, apparently belong to a fish not less than the Shark, and what is more singular, several fragments of potter's ware in the stile of the Indians. Before he reached these curiosities he passed thro' about fifty feet of soft blue clay. I have not seen the articles, having but just heard of them, & been too closely engaged ; but have my information from the most unexceptionable witnesses who have. I am told by Genl Russel of Washington County, that in sinking a Salt well in that County he fell in with the hip bone of the incognitum, the socket of which was about 8 inches diameter. It was very soft in the subterraneous State, but seemed to undergo a petrefaction on being exposed to the air.

Adieu. Affec^ly^.

Promotions.—Edward Carrington & H. Lee, Jr., added to R. H. Lee, J^s^ Monroe, and Wm Grayson, in the delegation to Congress.

Carter Braxton to the Council.

J^no^ Tyler to court of admiralty, in room of B. Waller, res^d^

prices current.—Tob^o^, 23*s.* on James River, and proportially elsewhere.

Wheat, 5s to 6*s.* per Bushel.

Corn, 18s to 20*s.* per Barrel.

Pork 28s to 30*s* pr Ct.

TO JAMES MONROE. MAD. MSS.

RICHMOND, Jany. 22d, 1786.

DEAR SIR,—Your favors of the 19th Decr and 7th Jany came both to hand by yesterdays mail. The Assembly adjourned last night after a Session of 97 days. If its importance were to be measured by a list of the laws which it has produced, all preceding Legislative merit would be eclipsed, the number in this instance amounting to 114 or 115. If we recur to the proper criterion no Session has perhaps afforded less ground for applause. Not a single member seems to be pleased with a review of what has passed. I was too hasty in informing you that an amendment of the Port bill had passed. I was led into the error by the mistake of some who told me it had passed the Senate when it had only been agreed to in a Comittee of the Senate. Instead of passing it they sent down a repeal of the old port bill by way of amendment. This was disagreed to by the H. of D. as indirectly originating. The Senate adhered & the bill was lost. An attempt was then made by the adversaries of the port measure to suspend its operation till the end of the next Session. This also was negatived so that the old bill is left as it stood without alteration. Defective as it is particularly in putting citizens of other States on the footing of foreigners, and destitute as it is of proper concomitant provisions, it was judged best to hold it fast and trust to a succeeding Assembly for amendments. The navigation System for the State after having been prepared at great length by Mr G. Baker was pro-

crastinated in a very singular manner, and finally died away of itself, without anything being done, except a short act passed yesterday in great hurry imposing a tonnage of 5s. on the vessels of foreigners not having treated with the U. S. This failure of local measures in the comercial line, instead of reviving the original propositions for a general plan, revived that of Mr Tyler for the appointment of Comsrs to meet Comsrs from other States on the subject of general regulations. It went through by a very great majority, being opposed only by Mr M. Smith and Mr. Corbin. The expedient is no doubt liable to objections and will probably miscarry. I think however it is better than nothing, and as a recommendation of additional powers to Congress is within the purview of the Comission it may possibly lead to better consequences than at first occur. The Comsrs first named were the attorney, Doctr W. Jones of the Senate and myself. The importunity of Mr. Page procured the addition of St George Tucker who is sensible, fœderal, and skilled in comerce, to whom was added on the motion of I know not whom Mr M. Smith, who is at least exceptionable in the second quality having made unceasing war during the Session agst the idea of bracing the federal system. In the Senate a further addition was made of Col. Mason Mr. D. Ross and Mr. Ronald. The name of the latter was struck out at his desire. The others stand. It is not unlikely that this multitude of associates will stifle the thing in its birth. By some it was probably meant to do so. I am glad to

find that Virginia has merit where you are and should be more so if I saw greater reason for it. The bill which is considered at N. Y. as a compliance with the requisitions of Cong^{s}, is more so in appearance than reality. It will bring no specie into the Treas^{y} and but little Continental paper. Another act has since passed which professes to comply more regularly with the demand of Cong^{s} but this will fail as to *specie* and as to *punctuality*. It will probably procure the indents called for, and fulfils the views of Cong^{s} in making those of other States receivable into our Treas^{y}. Among the acts passed since my last I must not omit an economical revision of the Civil list. The saving will amount to 5 or 6000 pounds. The Govr was reduced by the H. of D. to £800, to which the Senate objected. Which receded I really forget. The Council to £2000, the Attorney to £200, Register from £1,100 to £800, Auditors & Solicitor from £4 to 300, Speaker of H. of D. to 40*s*. per day including daily pay as a member & of Senate to 20*s*, &c.; Delegates to Cong^{s} to 6 dollars per day. The act however is not to commence till November next. I mentioned in my last the propriety of addressing your future letters to Orange.

TO THOMAS JEFFERSON. MAD. MSS.

Virg^{a} ORANGE, March 18th, 1786.

DEAR SIR,—Your two favours of the 1 & 20 Sep^{r}, under the same cover by Mr Fitzhugh did not come to hand till the 24th ult; and of course till it was too

late for any Legislative interposition with regard to the Capitol. I have written to the Attorney on the subject. A letter which I have from him dated prior to his receipt of mine takes notice of the plan you had promised and makes no doubt that it will arrive in time for the purpose of the Commissioners. I do not gather from his expressions however that he was aware of the change which will become necessary in the foundation already laid; a change which will not be submitted to without reluctance for two reasons. 1. the appearance of caprice to which it may expose the Commissioners. 2. which is the material one, the danger of retarding the work till the next Session of Assembly can interpose a vote for its suspension, and possibly for a removal to Williamsburg. This danger is not altogether imaginary. Not a Session has passed since I became a member without one or other or both of these attempts. At the late Session a suspension was moved by the Williamsburg Interest, which was within a few votes of being agreed to. It is a great object therefore with the Richmond Interest to get the building so far advanced before the fall as to put an end to such experiments. The circumstances which will weigh in the other scale, and which it is to be hoped will preponderate, are, the fear of being reproached with sacrificing public considerations to a local policy, and a hope that the substitution of a more economical plan, may better reconcile the Assembly to a prosecution of the Undertaking.

Since I have been at home I have had leisure to

review the literary cargo for which I am so much indebted to your friendship. The collection is perfectly to my mind. I must trouble you only to get two little mistakes rectified. The number of Vol. in the Encyclopedie corresponds with your list, but a duplicate has been packed up of Tom. 1ere partie of Histoire Naturelle, Quadrupedes, premiere livraison, and there is left out the 2d part of the same Tom. which as appears by the Avis to the 1st livraison makes the 1st Tome of Histoire des oiseaux, as well as by the Histoire des oiseaux sent, which begins with Tom. II 1re partie, and with the letter F from the Avis to the sixth livraison I infer that the vol. omitted made part of the 5me livraison. The duplicate vol. seems to have been a good deal handled and possibly belongs to your own sett. Shall I keep it in my hands, or send it back? The other mistake is an omission of the 4th vol. of D'Albon sur l'interêt de plusieurs nations, &c. The binding of the three vols which are come is distinguished from that of most of the other books by the circumstance of the figure on the back numbering the vols being on a black instead of a red ground. The author's name above is on a red ground. I mention these circumstances that the binder may supply the omitted volume in proper uniform. I annex a state of our account balanced. I had an opportunity a few days after your letters were recd of remitting the balance to the hands of Mrs Carr with a request that it might be made use of as you direct to prevent a loss of time to her sons from occasional disappointments in the stated funds. I have not yet

heard from the Mr Fitzhughs on the subject of your advance to them. The advance to Le Maire had been made a considerable time before I received your countermanding instructions. I have no copying press, but must postpone that conveniency to other wants which will absorb my little resources. I am fully apprized of the value of this machine and mean to get one when I can better afford it, and may have more use for it. I am led to think it w^d^ be a very economical acquisition to all our public offices which are obliged to furnish copies of papers belonging to them.

A Quorum of the deputies appointed by the Assembly for a commercial convention had a meeting at Richmond shortly after I left it, and the Attorney tells me, it has been agreed to propose Annapolis, for the place, and the first monday in Sepr for the time of holding the Convention. It was thought prudent to avoid the neighborhood of Congress, and the large Comercial towns, in order to disarm the adversaries to the object, of insinuations of influence from either of these quarters. I have not heard what opinion is entertained of this project at New York, nor what reception it has found in any of the States. If it should come to nothing, it will, I fear confirm G. B. and all the world in the belief that we are not to be respected, nor apprehended as a nation in matters of commerce. The States are every day giving proofs that separate regulations are more likely to set them by the ears, than to attain the common object. When Mass^ts^ set on foot a retaliation of the policy of G. B. Connecticut

declared her ports free. N. Jersey served N. York in the same way. And Delaware I am told has lately followed the example, in opposition to the commercial plans of Penn[a]. A miscarriage of this attempt to unite the States in some effectual plan, will have another effect of a serious nature. It will dissipate every prospect of drawing a steady revenue from our imposts either directly into the federal treasury, or indirectly thro' the treasuries of the Commercial States, and of consequence the former must depend for supplies solely on annual requisitions, and the latter on direct taxes drawn from the property of the Country. That these dependencies are in an alarming degree fallacious is put by experience out of all question. The payments from the States under the calls of Congress have in no year borne any proportion to the public wants. During the last year, that is from Nov[r], 1784, to Nov[r] 1785, the aggregate payments, as stated to the late Assembly fell short of 400,000 doll[rs], a sum neither equal to the interest due on the foreign debts, nor even to the current expences of the federal Government. The greatest part of this sum too went from Virg[a], which will not supply a single shilling the present year. Another unhappy effect of a continuance of the present anarchy of our commerces will be a continuance of the unfavorable balance on it, which by draining us of our metals furnishes pretexts for the pernicious substitution of paper money, for indulgences to debtors, for postponements of taxes. In fact most of our political evils may be traced up to our commercial ones, as most of

our moral may to our political. The lessons which the mercantile interests of Europe have received from late experience will probably check their propensity to credit us beyond our resources, and so far the evil of an unfavorable balance will correct itself. But the Merchants of G. B. if no others will continue to credit us at least as far as our remittances can be strained, and that is far enough to perpetuate our difficulties unless the luxurious propensity of our own people can be otherwise checked. This view of our situation presents the proposed Convention as a remedial experiment which ought to command every assent; but if it be a just view it is one which assuredly will not be taken by all even of those whose intentions are good. I consider the event therefore as extremely uncertain, or rather, considering that the States must first agree to the proposition for sending deputies, that these must agree in a plan to be sent back to the States, and that these again must agree unanimously in a ratification of it. I almost despair of success. It is necessary however that something should be tried & if this be not the best possible expedient, it is the best that could possibly be carried thro' the Legislature here. And if the present crisis cannot effect unanimity, from what future concurrence of circumstances is it to be expected? Two considerations particularly remonstrate against delay. One is the danger of having the same[1] *game played on our Confederacy* by which *Philip managed that of* the *Grecians. I saw eno' during the late Assembly* of the *influence*

[1] Cypher for italics.

of the *desperate circumstances of individuals on their public conduct* to *admonish me of* the *possibility of finding in the council of some one of the States fit instruments of foreign machinations.* The other consideration is the probability of an early *increase of* the *confederated States, which more* than *proportionally impede measures which require unanimity, as* the *new members, may bring sentiments* and *interests less congenial with those of* the *Atlantic States than those of the latter are one with another.*

The price of our staple is down at 22*s.* at Richmond. One argument for putting off the taxes was that it would relieve the planters from the necessity of selling, & would enable them to make a better bargain with the purchasers. The price has notwithstanding been falling ever since. How far the event may have proceeded from a change in the Market of Europe I know not. That it has in part proceeded from the practice of remitting and postponing the taxes may I think be fairly deduced. The scarcity of money must of necessity sink the price of every article, and the relaxation in collecting the taxes, increases this scarcity by diverting the money from the public Treasury to the shops of Merchandize. In the former case it would return into circulation. In the latter it goes out of the Country to balance the increased consumption. A vigorous and steady collection of taxes would make the money necessary here and would therefore be a mean of keeping it here. In our situation it would have the salutary operation of a sumptuary law. The price of Indian Corn in this part of

the Country which produced the best crops is not higher than 2 dollrs per barrl. It would have been much higher but for the peculiar mildness of the winter. December and Jany scarcely reminded us that it was winter. February, though temperate, was less unseasonable. Our deepest snow (about 7 inches) was in the present month. I observe the tops of the blue ridge still marked with its remains. My last was dated January 22, and contained a narrative of the proceedings of the Assembly. I shall write you again as soon as the subject & opportunity occur, remaining in the mean time

Yr affecte friend

Dr to T. J.		livs sols	Credt	
1785 Sepr 1	To amt of books, &c	1164—3	drs	livs sols
	By balance Stated by T. J.		77⅓.....	407—15
	By advance to lemaire 10 Guns.....			234
			drs	
	By do for 6 Copies Revisal at 2½....			81
				722—15
	*By £25 Va Cy remitted to Mrs C....			441—8
				1164—3

* £25 I discover exceeds the sum extended a few livres which may be carried into the next Accl if it be thought worth while.

TO JAMES MONROE. MAD. MSS.

ORANGE 19th March 1786

DEAR SIR,—I am just favored with yours of the 11 & 16 of Feby. A newspaper since the date of the

latter has verified to me your inauguration into the mysteries of Wedlock, of which you dropped a previous hint in the former.[1] You will accept my sincerest congratulations on this event, with every wish for the happiness it promises. I join you cheerfully in the purchase from Taylor, as preferably to taking it wholly to myself. The only circumstance I regret is that the first payment will rest with you alone, if the conveyance should be accelerated. A few months will elapse inevitably before I shall be able to place on the spot my half of the sum but the day shall be shortened as much as possible. I accede also fully to your idea of extending the purchase in that quarter. Perhaps we may be able to go beyond the thousand acres you have taken into view. But ought we not to explore the ground before we venture too far?[2] proximity of situation is but presumptive evidence of the quality of soil. The value of land depends on a variety of little circumstances which can only be judged of from inspection, and a knowledge of which gives a seller an undue advantage over an uninformed buyer. Can we not about the last of May or June take a turn into that district, I am in a manner determined on it myself. It will separate you but for a moment from New York, and may give us lights of great consequence. I have a project in my head which if it hits your idea and can be effected

[1] "If you visit this place shortly I will present you to a young lady who will be adopted a citizen of Virg[a] in the course of this week." Monroe to Madison, February 11, 1786.—*Writings of Monroe*, i., 123.

[2] Madison and Monroe bought lands in the Mohawk Valley on a speculation. They desired Jefferson to join in the enterprise but he did not accept. Apparently no money was made in the transaction.

may render such an excursion of decisive value to us. I reserve it for oral communication.

"The Question of policy," you say, "is whether it will be better to correct the vices of the Confederation by recommendation gradually as it moves along, or by a Convention. If the latter should be determined on, the powers of the Virg[a] Comsrs are inadequate." If all on whom the correction of these vices depends were well informed and well disposed, the mode would be of little moment. But as we have both ignorance and iniquity to combat, we must defeat the designs of the latter by humouring the prejudices of the former. The efforts for bringing about a correction thro' the medium of Congress have miscarried. Let a Convention then, be tried. If it succeeds in the first instance, it can be repeated as other defects force themselves on the public attention, and as the public mind becomes prepared for further remedies. The Assembly here would refer nothing to Congress. They would have revolted equally against a plenipotentiary commission to their deputies for the Convention. The option therefore lay between doing what was done and doing nothing. Whether a right choice was made time only can prove. I am not in general an advocate for temporizing or partial remedies. But a rigor in this respect, if pushed too far may hazard everything. If the present paroxysm of our affairs be totally neglected our case may become desperate. If anything comes of the Convention it will probably be of a permanent not a temporary nature, which I think will be a great point. The mind feels a peculiar

complacency in seeing a good thing done when it is not subject to the trouble & uncertainty of doing it over again. The commission is to be sure not filled to every man's mind. The History of it may be a subject of some future tête a tête. You will be kind enough to forward the letter to Mr Jefferson and to be assured that I am with the sincerest affection

y^r^ friend & serv^t^

TO JAMES MONORE. MAD. MSS.

ORANGE April 9th, 1786.

DEAR SIR,—I am favoured with yours of the 18th of March. My last answered your preceding one relating to your territorial speculation. I hope it has been rec^d^. I forgot to intimate to you, though I presume it would have been superfluous, that it will be well in every purchase to ascertain by information as far as possible, the proportion of land which lies on the river and comes within the description of low grounds. The value of every tract depends much on this proportion. The contiguous upland is I believe generally of good soil, but there must be both degrees & exceptions to its quality. The low grounds are in a manner uniformly & universally good. The step taken by N. Jersey was certainly a rash one, and will furnish fresh pretexts to unwilling States for withhold^g^ their contributions.[1] In one point of view however it furnishes a

[1] "Jersey having taken into consideration the late requisition, the house of delegates resolv'd that having enter'd into the confederation upon terms highly disadvantagous to that state, from the necessity of public Aff^rs^ at the time, and a confidence that those points in which they were aggriev'd wo^d^ be remedied and

salutary lesson. Is it possible with such an example before our eyes of impotency in the federal system, to remain sceptical with regard to the necessity of infusing more energy into it? A Government cannot long stand which is obliged in the ordinary course of its administration to court a compliance with its *constitutional* acts, from a member not of the most powerful order, situated within the immediate verge of authority, and apprised of every circumstance which should remonstrate against disobedience. The question whether it be possible and worth while to preserve the Union of the States must be speedily decided some way or other. Those who are indifferent to its preservation would do well to look forward to the consequences of its extinction. The prospect to my eye is a gloomy one indeed. I am glad to hear that the opposition to the impost is likely to be overcome. It is an encouragement to persevere in good measures. I am afraid at the same time that like other auxiliary resources it will be overrated by the States, and slacken the regular efforts of taxation. It is also materially short of the power which Congress ought to have with regard to Trade. It leaves the door unshut agst a comercial warfare among the States, our trade exposed to foreign machinations, and the distresses of an unfavorable balance very little checked. The experience of European Merch^{ts} who have speculated in our trade will probably check in a great measure, our

finding this was not the case and a compact founded in such unequal principles likely, by their acquiescence to be fetter'd on them, they wo^{d} not therefore comply with the same until their grievances were redress'd."—Monroe to Madison, March 19, 1786.—*Writings of Monroe*, i., 124.

opportunities of consuming beyond our resources; but they will continue to credit us as far as our coin in addition to our productions will extend, and our experience here teaches us that our people will extend their consumption as far as credit can be obtained.

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE May 12th, 1786.

DEAR SIR,—My last was of March 18, since which I have been favored with yours of the 8 and 9th of Feby. Bancroft's application in favour of Paridise inclosed in the latter shall be attended to as far as the case will admit; though I see not how any relief can be obtained. If Mr. P stands on the list of foreign creditors his agent here may probably convert his Securities into money without any very great loss, as they rest on good funds, and the principal is in a course of payment. If he stands on the domestic list as I presume he does, the interest only is provided for, and since the postponement of the taxes even that cannot be negociated without a discount of 10 per C^{t}, at least. The principal cannot be turned into cash without sinking $\frac{3}{4}$ of its amount.

Your notes[1] having got into print in France will inevitably be translated back & published in that form, not only in England but in America, unless you give out the original. I think therefore you owe it not only to yourself, but to the place you occupy & the subjects you have handled, to take this precaution. To say nothing of the injury which will certainly result to the diction from a translation first into French & then back into English, the ideas themselves may possibly be so perverted as to lose their propriety. The books which you have been so good as to for^{d} to me are so well assorted to my wishes that no suggestions are necessary as to your future purchases. A copy of the old edition of the Encyclopedia is desirable for ye reasons you mention, but as I should gratify my desire in this particular at the expense of something else

[1] On Virginia.

which I can less dispense with, I must content myself with the new Edition for the present. The watch I bought in Philad[a], though a pretty good one, is probably so far inferior to those of which you have a sample, that I cannot refuse your kind offer to procure me one of the same sort; and I am fancying to myself so many little gratifications from the pedometer that I cannot forego that addition. The inscription for the Statue is liable to Houdon's criticism, and is in every respect inferior to the substitute which you have copied into your letter.[1] I am apprehensive notwithstanding that no change can be effected. The Assembly will want some proper ground for resuming the matter. The devices for the other side of the pedestal are well chosen, and might I should suppose be applied without scruple as decorations of the artist. I counted myself on the addition of proper ornaments, and am persuaded that such a liberty could give offence nowhere. The execution of your hints with regard to the [2] *Marquis* & *Rochambeau* would be no less pleasing to me than to you. I think with you also *that the setting up the busts of our own worthies* would not be doing more *honour to them than to ourselves.* I foresee however the difficulty of overcoming the popular objection against every measure which involves expence, particularly where the importance of the measure will be felt by a few only; and an unsuccessful attempt would be worse than no attempt. I have heard nothing as to the Capitol. I mentioned to you in my last that I had written to the Attorney on the subject. I shall have an opportunity shortly of touching on it again to him.

A great many changes have taken place in the late elections. The principal acquisitions are Col. G. Mason who I am told was pressed into the service at the instigation of Gen[l] Washington,

[1] "'Behold, Reader, the form of George Washington. For his worth, ask History; that will tell it, when this stone shall have yielded to the decays of time. His cuntry erects this monument: Houdon makes it.' This for one side. On the 2[d] represent the evacuation of Boston with the motto 'Hostibus primum fugatis.' On the 3[d] the capture of the Hessians with 'Hostibus iterum devictis.' On the 4th the surrender of York, with 'Hostibus ultimum deballatis.'"—Jefferson to Madison, February 8, 1786.—*Writings of Jefferson*, iv., 195. Fortunately the unpretentious inscription required by Virginia was adhered to.

[2] Italics for cypher.

Gen[l] Nelson, Mann Page. In Albemarle both the old ones declined the task. Their successors are George & J[no] Nicholas. Col. Carter was again an unsuccessful candidate. I have not heard how Mr. Harrison has shaped his course. It was expected that he would stand in a very awkward relation both to Charles City & to Surrey, and would probably succeed in neither. Monroe lost his election in King George by 6 votes. Mercer did his by the same number in Stafford. Neither of them were present, or they would no doubt have both been elected. Col. Bland is also to be among us. Among the many good things which may be expected from Col. Mason we may reckon perhaps an effort to review our Constitution. The loss of the Port bill will certainly be one condition on which we are to receive his valuable assistance. I am not without fears also concerning his federal ideas. The last time I saw him he seemed to have come about a good deal towards the policy of giving Cong[s] the management of Trade. But he has been led so far out of the right way, that a thorough return can scarcely be hoped for. On all the other great points, the Revised Code, the Assize bill, taxation, paper money, &c., his abilities will be inestimable. Most if not all the States except Maryl[d], have appointed deputies for the proposed Convention at Annapolis. The refusal of Maryland to appoint proceeded as I am informed by Mr. Dan Carroll, from a mistaken notion, that the measure would derogate from the authority of Congress, and interfere with the Revenue system of April 1783, which they have lately recommended anew to the States. There is certainly no such interference, and instead of lessening the authority of Congress, the object of the Convention is to extend it over commerce. I have no doubt that on a reconsideration of the matter it will be viewed in a different light. The internal situation of this State is growing worse & worse. Our specie has vanished. The people are again plunged in debt to the Merchants, and these circumstances added to the fall of Tob[o] in Europe & a probable combination among its chief purchasers here, have reduced that article to 20*s*. The price of Corn is in many parts of the Country, at 20*s*. and upwards per barr[l]. In this part it is not more that 15*s*. Our Spring has been a cool & latterly a dry one, of course it is a backward one. The first day of april was the most remarkable ever experienced in this climate. It

snowed & hailed the whole day in a storm from N. E., and the Therm^{r} stood at 4 o'C. P. M. at 26°. If the snow had fallen in the usual way it would have been 8 or 10 inches deep at least, but consisting of small hard globules mixed with small hail, & lying on the ground so compact & firm as to bear a man, it was less than half of that depth. We hear from Kentucky that the inhabitants are still at variance with their savage neighbours. In a late skirmish several were lost on both sides. On that of the whites Col. W. Christian is mentioned. It is said the scheme of independence is growing unpopular since the Act of our Assembly has brought the question fully before them. Your Nephew, D Carr, has been some time at the Academy in Prince Edward. The President, Mr. Smith, speaks favorably of him.

With the sincerest affection, I remain, Dr Sir your friend & servant.

P. S. I have taken measures for securing the Paccan nuts & the seed of the Sugar Tree. Are there no other things here which would be acceptable on a like account? You will withhold from me a real pleasure if you do not favor me with your commands freely. Perhaps some of our animal curiosities would enable you to gratify particular characters of merit. I can without difficulty get the skins of all our common and of some of our rarer quadrupeds, and can have them stuffed if desired. It is possible, also, that I may be able to send some of them alive. I lately had on hand a female opossum with 7 young ones, which I intended to have reared for the purpose partly of experiments myself and partly of being able to forward some of them to you in case of an opport^{y}, and your desiring it. Unfortunately they have all died. But I find they can be got at any time almost in the Spring of the year, and if the season be too far advanced now, they may certainly be had earlier in the next Spring. I observe that in your notes you number the fallow & Roe-deer among the native quadrupeds of America. As Buffon had admitted the fact, it was whether true or erroneous, a good argument no doubt against him. But I am persuaded they are not natives of the new continent. Buffon mentions the Chevruil in particular as abounding in Louisiana. I have enquired of several credible persons who have

traversed the Western woods extensively and quite down to New Orleans, all of whom affirm that no other than our common deer are any where seen. Nor can I find any written evidence to the contrary that deserves notice. You have I believe justly considered our Monax as the Marmotte of Europe. I have lately had an opportunity of examining a female one with some attention. Its weight, after it had lost a good deal of blood, was 5½ lbs. Its dimensions, shape, teeth, and structure within as far as I could judge corresponded in substance with the description given by D'Aubenton. In sundry minute circumstances a precise correspondence was also observable. The principal variations were 1, in the face, which was shorter in the Monax than in the proportions of the Marmotte, and was less arched about the root of the nose. 2, in the feet, each of the forefeet having a fifth nail, about ⅓ of an inch long growing out of the inward side of the heel, without any visible toe. From this particular it would seem to be the Marmotte of Poland, called the Bobac, rather than the Alpine Marmotte. 3, in the teats, which were 8 only. The marmotte in Buffon had 10. 4th, in several circumstances of its robe; particularly of that of the belly, which consisted of a short coarse thin hair, whereas this part of Buffon's marmotte was covered with a thicker fur than the back, &c. A very material circumstance in the comparison remains to be ascertained. The European Marmotte is in the class of those which are dormant during the winter. No person here of whom I have enquired can decide whether this be a quality of the Monax. I infer that it is of the dormant class not only from its similitude to the Marmotte in other respects, but from the sensible coldness of the Monax I examined, compared with the human body, altho the vital heat of quadrupeds is said in general to be greater than that of man. This inferiority of heat being a characteristic of animals which become torpid from cold, I should consider it as deciding the quality of ye Monax in this respect, were it not that the subject of my examination, tho it remained alive several days in my hands was so crippled and apparently dying the whole time that its actual heat could not fairly be taken for the degree of its natural heat. If it had recovered I had intended to have made a trial with the Thermometer. I now propose to have if I can one of their habitations discovered during

the summer, and to open it on some cold day next winter. This will fix the matter. There is another circumstance which belongs to a full comparison of the two animals. The Marmotte of Europe is said to be an inhabitant of the upper region of mountains only. Whether our Monax be confined to mountainous situations or not I have not yet learnt. If it be not found as a permanent inhabitant of the level Country, it certainly descends occasionally into the plains which are in the neighborhood of mountains. I also compared a few days ago one of our moles (male) with the male one described in Buffon. It weighed 2^{oz} 11 pen^{ts}. Its length the end of its snout to the root of the tail was 5 inch 3 lines, English measure. That described in Buffon was not weighed I believe. Its length was 5 inch french measure. The external and internal correspondence seemed to be too exact for distinct species. There was a difference nevertheless in two circumstances, one of which is not unworthy of notice, and the other of material consequence in the comparison. The first difference was in the tail, that of the mole here being 10½ English lines only in the length, and naked, whereas that of Buffon's mole was 14 French lines in length and covered with hair. If the hair was included in the latter measure, the difference *in the length* ought scarcely to be noted. The second difference lay in the teeth. The mole in Buffon had 44. That which I examined had but 33. One of those on the left side of the upper Jaw, and next to the principal cutters, was so small as to be scarcely visible to the natural eye, and had no corresponding tooth on the opposite side. Supposing this defect of a corresponding tooth to be accidental, a difference of ten teeth still remains. If these circumstances should not be thought to invalidate the identity of species, the mole will stand as an exception to the Theory which supposes no animal to be common to the two Continents, which cannot bear the cold of the region where they join; since according to Buffon this species of mole is not found "dans les climats froids ou la terre est gelée pendant la plus grande partie de l'annèe," and it cannot be suspected of such a Journey during a short summer as would head the sea which separates the two Continents. I suspect that several of our quadrupeds which are not peculiar to the new Continent will be found to be exceptions to this Theory, if the mole should not. The

Marmotte itself, is not an animal taken notice of very far to the North, and as it moves slowly, and is deprived of its locomotive powers altogether by cold cannot be supposed to have travelled the road which leads from the old to the New World. It is perhaps questionable whether any of the dormant animals, if any such be really comon to Europe & America, can have emigrated from one to the other. I have thought that the cuts of the Quadrupeds in Buffon, if arranged in frames, would make both an agreeable and instructive piece of wall furniture. What would be about the cost of them in such a form? I suppose they are not to be had coloured to the life, and would besides be too costly. What is the price of Buffon's birds, colored?

Your letter of 28 October has never come to hand.

TO JAMES MONROE. MAD. MSS.

ORANGE May 13th, 1786

DEAR SIR,—I was favored a few days ago with yours of the 28th ult. I am under great obligations for your kindness in the affair with Taylor. My late letters will have informed you of my wishes that you may fully partake of the bargain entered into already, as well as every future adventure in that quarter. The encouragement you give me to expect your company has in a manner determined me to encounter a journey as soon as I can conveniently make preparation for it. I am the rather induced to do it as I shall be the more able by that means to accelerate a repayment of your kind advances, having some little resources in Philad.a of w.ch I must avail myself for that purpose. My next will probably tell you when I shall be able to set out.

I think, with you, that it would have an odd ap-

pearance for two Conventions to be sitting at the same time, with powers in part concurrent. The reasons you give seem also to be valid against augmenting the powers of that which is to meet at Annapolis. I am not surprized therefore at the embarrassment of Congress in the present conjuncture. Will it not be best on the whole to suspend measures for a more thorough cure of our federal system, till the partial experiment shall have been made. If the spirit of the Conventioners should be friendly to the Union, and their proceedings well conducted, their return into the Councils of their respective States will greatly facilitate any subsequent measures which may be set on foot by Congress, or by any of the States.

Great changes have taken place in the late elections. I regret much that we are not to have your aid. It will be greatly needed I am sure. Mercer it seems lost his election by the same number of votes as left you out. He was absent at the time or he would no doubt have been elected. Have you seen his pamphlet? You will have heard of the election of Col. Mason, Genl Nelson, Mann Page, G. Nicholas, Jno Nicholas, & Col. Bland. Col. Mason will be an inestimable acquisition on most of the great points. On the port bill he is to be equally dreaded. In fact I consider that measure as lost almost at any rate. There was a majority agst it last session if it had been skilfully made use of. To force the trade to Norfolk & Alexandria, without preparations for it at those places, will be considered as injurious. And so little ground is there for confidence in the

stability of the Legislature that no preparations will ever be made in consequence of a preceding law. The transition must of necessity therefore be at any time abrupt and inconvenient. I am somewhat apprehensive, likewise, that Col. Mason may not be fully cured of his anti-federal prejudices.

We hear from Kentucky that the Savages continue to disquiet them. Col. W. Christian it is said lately lost his life in pursuing a few who had made an inroad on the settlement. We are told too that the proposed separation is growing very unpopular among them.

I am Dr Sir with great affection

Yr friend & Servt

Pray forward the herewith inclosed to Mr J. I sent one for him about the last of March which I hope you rec^d^ & put into the proper channel

TO JAMES MONROE. MAD. MSS.

ORANGE June 4th, 1786.

DEAR SIR,—At the date of my last I expected I should by this time have been on the journey which promises the pleasure of taking you by the hand in New York. Several circumstances have produced a delay in my setting out which I did not calculate upon, and which are like to continue it for eight or ten days to come. My journey will also be rendered tedious by the route which I shall pursue. I have some business which makes it expedient for me to take Winchester & Lancaster in my way, and some duties of consanguinity which will detain me some days in the

neighborhood of the former. If I have an opportunity I will write you again before I set out and if I should not I will do it : immediately on my reaching Philad[a]. You will not write after the receipt of this.

I imagine you get from M[r]. Jones better information as to the back country as well as concerning our more immediate affairs than I can give you. The death of Christian seems to be confirmed. The disinclination of Kentucky to a separation is also repeated with strong circumstances of probability. Our staple continues low. The people have got in debt to the merch[ts], who set their own price of course. There are perhaps other causes also besides the fall of the market in Europe which of itself does not explain the matter. One of them may be the scarcity of money which is really great. The advocates for paper money are making the most of this handle. I begin to fear exceedingly that no efforts will be sufficient to parry this evil. The election of Col. Mason is the main counterpoise for my hopes against the popular cry. Mann Page & Gen[l] Nelson will also I flatter myself be valuable fellow labourers. Our situation is truly embarrassing. It cannot perhaps be affirmed that there is gold & silver eno' in the Country to pay the next tax. What then is to be done? Is there any other alternative but to emit paper or to postpone the collection? These are ye questions which will be rung in our ears by the very men whose past measures have plunged us into our difficulties. But I will not plague you with our difficulties here. You have enough of them, I am sure where you are.

Present my best respects to Col. Grayson & your other colleagues & believe me to be, your's affectionately.

TO THOMAS JEFFERSON. MAD. MSS.

ORANGE June 19th 1786

DEAR SIR,—Since my last which was of the 18th of May I have recd your very agreeable favor of the 28th of Octobr. I began to fear it had miscarried. Your reflections on the idle poor of Europe,[1] form a valuable lesson to the Legislators of every

[1] "FONTAINEBLEAU Oct. 28. 1785.

* * * * * * * * *

"as soon as I had got clear of the town I fell in with a poor woman walking at same rate with myself & going the same course. wishing to know the condition of the labouring poor I entered into conversation with her, which I began by enquiries for the path which would lead me into the mountain: & thence proceeded to enquiries into her vocation, condition & circumstance. she told me she was a daylabourer, at 8 sous or 4d sterling the day: that she had two children to maintain, & to pay a rent of 30 livres for her home, (which would consume the hire of 75 days) that often she could get no emploiment, and of course was without bread. as we had walked together near a mile & she had so far served me as a guide, I gave her, on parting, 24 sous. she burst into tears of a gratitude which I could perceive was unfeigned, because she was unable to utter a word. she had probably never before received so great an aid. this little attendrissement, with the solitude of my walk led me into a train of reflections on that unequal division of property which occasions the numberless instances of wretchedness which I had observed in this country & is to be observed all over Europe. the property of this country is absolutely concentered in a very few hands, having revenues of from half a million of guineas a year downwards. these employ the flower of the country as servants, some of them having as many as 200 domestics. not labouring. they employ also a great number of manufacturers, & tradesmen, & lastly the class of labouring husbandmen. but after all these comes the most numerous of all the classes, that is, the poor who cannot find work. I asked myself what could be the reason that so many should be permitted to beg who are willing to work, in a country where there is a very considerable proportion of uncultivated lands? these lands are kept idle mostly for the sake of game. it should seem then that it must be because of the enormous wealth of the proprietors which places them above attention to the increase of their revenues by permitting these lands to

Country, and particularly of a new one. I hope you will enable yourself before you return to America to compare with this description of people in France the condition of the indigent part of other communities in Europe where the like causes of wretchedness exist in a less degree. I have no doubt but that the misery of the lower classes will be found to abate wherever the Government assumes a freer aspect, & the laws favor a subdivision of property, yet I suspect that the difference will not fully account for the comparative comfort of the mass of people in the United States. Our limited population has probably as large a share in producing this effect as the political advantages which distinguish us. A certain degree of misery seems inseparable from a high degree of populousness. If the lands in Europe which are now dedicated to the amusement of the idle rich, were parcelled out among the idle poor, I readily conceive the happy revolution which would be experienced by a certain proportion of the latter. But still would there not remain a great proportion unrelieved? No problem in political œconomy has appeared to me more puzzling than that which relates to the most proper

be laboured. I am conscious that an equal division of property is impracticable. but the consequences of this enormous inequality producing so much misery to the bulk of mankind, legislators cannot invent too many devices for sub-dividing property, only taking care to let their sub divisions go hand in hand with the natural affections of the human mind. the descent of property of every kind therefore to all the children, or to all the brothers & sisters, or other relations in equal degree is a politic measure, and a practicable one. another means of silently lessening the unequality of property is to exempt all from taxation below a certain point, & to tax the higher portions of property in geometrical progression as they rise. Whenever there is in any country, uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right, the earth is given as a common stock to man to labour & live on. if, for the encouragement of industry we allow it to be appropriated, we must take care that other employment be permitted to those excluded from the appropriation. if we do not the fundamental right to labour the earth returns to the unemployed. it is too soon yet in our country to say that every man who cannot find employment but who can find uncultivated land, shall be at liberty to cultivate it, paying a moderate rent, but it is not too soon to provide by every possible means that as few as possible shall be without a little portion of land. the small land holders are the most precious part of a state."—Jefferson to Madison, *Mad. MSS.*

distribution of the inhabitants of a country fully peopled.[1] Let the lands be shared among them ever so wisely, & let them be supplied with labourers ever so plentifully; as there must be a great surplus of subsistence, there will also remain a great surplus of inhabitants, a greater by far than will be employed in cloathing both themselves & those who feed them, and in administering to both, every other necessary & even comfort of life. What is to be done with this surplus? Hitherto we have seen them distributed into manufactures of superfluities, idle proprietors of productive lands, domestics, soldiers, merchants, mariners, and a few other less numerous classes. All these classes notwithstanding have been found insufficient to absorb the redundant members of a populous society; and yet a reduction of most of those classes enters into the very reform which appears so necessary & desirable. From a more equal partition of property, must result a greater simplicity of manners, consequently a less consumption of manufactured superfluities, and a less proportion of idle proprietors & domestics. From a juster Government must result less need of soldiers either for defence agst dangers from without, or disturbances from within. The number of merchants must be inconsiderable under any modification of Society; and that of mariners will depend more on geographical position, than on the plan of legislation. But I forget that I am writing a letter not a dissertation.

Things have undergone little change here since my last. The scarcity of money the low price of Tob^{o} & the high price of bread continue to be the topics of complaint. The last evil is likely to be much increased by a sudden vicissitude in the prospects of wheat. At the date of my last we were praying for rain. Shortly after we had a deluge of it. From the 19th of May to the 4th of June, we scarcely saw the sun, had almost incessant rains, and sometimes showers, or rather torrents that threatened to sweep away every thing. The planters pretty generally availed themselves of the Season for getting their Tobacco into the hills. But the farmers have nearly lost their crops of wheat. A great proportion of the heads in this part of the country are blasted, and

[1] Malthus' first edition of his *Essay on the Principle of Population* was not published till 1798.

in many parts it is said the fields will not be worth cutting. Our crops of apples also which in common with all other fruits seemed to be abundant appear to have suffered much from the wet. We are now again suffering from the opposite extreme. We have had no rain since the cessation of the long spell, that is since the 3^{d} instant, and the earth is as dry and as hard as a brick.

In an answer from the attorney to a late letter, he says "that after great anxiety we have rec^{d} the plan of a capitol from Mr J. and with some difficulty the directors have assented to conform the bricks already laid to that model."

I have a little itch to gain a smattering in chymistry. Will you be kind eno' to pick up some good elementary treatise for me, with a good dictionary of moderate size, unless the chymical volume in the encyclopedie should be judged a competent provision. Morveau's Elements I observe are quoted with great respect by Buffon. I wish also to get his two Boxes, called Le necessaire chemique. They are described in the Bibliotheque physico-economique for 1784. p. 134. where the maker in Paris is also referred to. I project this last indulgence on the supposition that the whole apparatus, including the contents of the Bottles will not cost more than a couple of Louis.

I observe that in your analysis of the Revisal p. 251 of your notes, a Bill is mentioned for consigning our roads to undertakers instead of the present vicious plan of repairing them. No such provision is comprized in the Road bill reported & printed. If it be any where in existence, I wish you could put me on the means of getting a sight of it. I conceive such a reform to be essential & that the Legislature would adopt it, if presented in a well digested form.

I lately sent you some particulars relating to our mole.[1] For want of something better to fill the remainder of my paper, I will now add the result of my examination two days ago of another of our minor quadrupeds, I mean, a Weasel. It was a female & came to my hands dead. Its colour corresponded with the description given by D'Aubenton of the Belette & Roselet or Hermine

[1] in enumerating the distinctions between our mole & the comon one of Europe, I find I omitted the difference of colour. You know the colour of ours, which is pretty remote from black, tho' somewhat darkish. [Note in MS.]

in its summer dress, excepting only that the belly &c. which in the European animal was white, was in ours of a lightish yellow, save only the part under the lower jaws which was white for about ½ an inch back from the under lip. The little brown spots near the corners of the mouth mentioned by D'Aubenton were peninsular. The tail was of the color of the back &c. all but the end which was black. The ears were extremely thin, had a fold or duplication on the lower part of the conque about 2 lines deep, and at the margin all around were covered with a very fine short hair or fur of the colour nearly of the back. The rest of the ear was in a manner naked, and of a lightish color. The forefeet were tipped & spotted with white. The hind feet were also tipped with white, and one of them a little spotted. It had five toes on each foot, the fifth on each being very short and at some distance from the end of the foot. Its smell was a sort of rankish musk, but not so strong as to be very offensive. It had no visible teats. Its weight dimensions &c. compared with those of Buffon's Belette & Hermine were as follows.

	Weasel		Belette		Hermine	
	oz pwt. gns		oz		oz pwt.	
Weight	2 17 13		2*		7 10	—
	Inch	lines	Inch	lines	Inch	lines
Length from muzzle to root of tail	7	9	6	6	9	6
of the Trunk of the Tail	3	6	1	3	3	10
Height before	1	11	1	5	2	8
behind	2	6	1	6	3	10
distance from muzzle to lower corner of the eye	..	5	..	5	..	7
from upper corner of eye to the ear	..	4½	..	5	..	7
from one corner to the other of the eye	..	3	..	2¼	..	3½
length of the ear perpendicularly	..	4½	..	3	..	4
width of ear horizontally		4				
distance between the ears at bottom	..	10⅓	..	9	1	
Length of the neck	1	1½	..	11	1	4

* The belette of this weight was but 6 in. 5 lines in length.

The weight & measure of the Weasel are English those of the Belette & Roselet—french.

	Weasel		Belette		Hermine	
	Inch	lines	Inch	lines	Inch	lines
circumference of neck	2	5	2	...	2	6
of body behind forelegs	2	10	2	3	3	4
before hindlegs	3	3	2	2	3	4
of head between eyes & ears	2	9	2	6	3	3
Length of foreleg from knee to heel	..	10½	..	9	1	2
from heel to the nails	..	9	..	7	1	1
of hindleg from knee to heel	1	4	..	11	1	10
Width of forefoot	..	3½	..	3	..	3½
of hindfoot	..	3½				
Length of nails of forefoot	..	2	..	2	..	3
of hindfoot	..	1½				
of hair on the body	..	3½	..	3	..	6
at end of tail	..	6½		short 1	3	...
distance between anus and vulva	..	3				
Spleen, length of	1	3	..	11		
width of in middle	..	3½	..	4		
Kidneys, long	..	7½	..	5½		
wide	..	4½	..	4		
thick	..	3	..	3		
Heart, long	..	6½	..	4		
round	1	4½	1	3		
Tongue, long from end to the filêt	..	3½	..	2½		
wide	..	2¼	..	2		
	number		nº		nº	
Teeth	34		34		34	
Ribbs	14		14		14	
Vertebræ of tail	14		14 or 15		19	
Palate furrows of	6		6		6	

The gall bladder was empty, the membrane of the Bladder very thin, and the two last furrows of the palate broken in the middle, in the Weasel as noted in the Belette, and the contrary not noted in the Hermine.

The spleen was of the same color on both sides in the Weasel. In the Hermine it was of a reddish brown as in the weasel, on one side, and of a very pale hue on the other. Nothing is said as to this circumstance in the description of the Belette.

The right kidney in the Weasel was advanced a little only before the left, as in the Belette, and not its whole length as in the Hermine.

The attempt to examine whether the number of false ribbs in the Weasel was 4 as in the Belette or 3 as in the Hermine, was frustrated.

On a review of the differential characters of the Belette and the Hermine, and a comparison of the weasel with both, it appears. 1. that the weasel stands between the two in point of size, but much less removed from the former than the latter, unless the individual here examined was much under the ordinary size. Its having no visible teats seems to be an indication that it was young. Another *probable* indication was the smallness of the hindmost teeth both in the upper & lower Jaws, those in the lower being not bigger than the head of a small pin ; & those in the upper disproportionate to the contiguous tooth. 2. that it resembles the Hermine in the length of the trunk of the tail, and in the blackness of its end, — but the Belette in the number of vertebræ in the Trunk, and in the shortness of the hair at the end of the tail. 3. That it resembles the Hermine in the colour of its feet, and the Belette in that of the margin of the ears. 4. that it resembles the Belette & not the Hermine in the Relative position of the Kidneys. 5. that it differs from the Hermine in being an inhabitant of warm climates. Wheather it resembles the Belette in not being an inhabitant of cold climates remains for enquiry. 6. that it differs from both in never becoming white during the winter, if this change be well founded with regard to the Belette. Buffon asserts that there are instances of it, but it may be questioned whether they were not mere albinos of the species.

The figure of the head of the Weasel when reduced to the naked bone resembled rather that of the Belette than that of the Hermine in the skeletons represented in Buffon. In its entire state it resembled most the head in the cut of the Hermine given by Buffon. Indeed the entire cut of the Hermine was a much stronger likeness of the weasel, than the cut of the Belette.

The result of the comparison seems to be that notwithstanding the blackness of the end of the tail & whiteness of the feet, which are regarded as characteristics of the Hermine contradistinguishing it from the belette, our weasel cannot be of the former species, and is nothing more than a variety of the latter. This

conclusion is the stronger, as the manners of our weasel correspond more nearly with those of the Belette, than with those of the Hermine. And if it be a just conclusion, it may possibly make one exception to Buffon's position that no animal is common to the two continents that cannot bear the climate where they join ; as it certainly contradicts his assertion that of the animals common to the two continents, those of the new are in every instance smaller than those of the old.—But he seems to have given up this point himself. Supplem^t tom. 8, p. 329. "L'imperfection de nature qu'el [M. P. l'auteur des recherches sur les Americains] reproche gratuitement a l'Amerique en general, ne doit porter que sur les animaux *de la partie meridionale* de ce continent, lesquels &c."—

My next will probably be dated in Philad^a or rather in N. York to which I am called by some business of a private nature in which I am concerned jointly with Col. Monroe. In the meantime I remain Y^rs very affectionately

TO JAMES MONROE. MAD. MSS.

ORANGE June 21st, 1786.

DEAR SIR,—Your favor of the 31st ult. did not come to hand till two days ago. As I expect to see you in a short time, I will suspend the full communication of my ideas on the subject of it till I have that pleasure. I cannot however forbear in the mean time expressing my amazement that a thought should be entertained of[1] *surrendering* the *Mississippi*, and of *guaranteing* the *possessions of Spain in America*. In the first place has not Virg^a, have not Cong^s themselves, and the Ministers of Cong^s, by their orders asserted the *right of those who live* on the *waters of the Mississippi to*

[1] Italics for cypher.

use it as the *high road given by nature to the sea?* This being the case, have *Cong*[s] *any more authority to say* that the *Western citizens of Virg*[a] shall not *pass through* the *capes of Mississippi* than to *say that her Eastern citizens* shall not *pass through the capes Henry & Charles.* It should be remembered that the United States are not now extricating themselves from *war, a crisis* which often knows no *law but that of necessity.* The measure in *question* would be a *voluntary barter* in time of *profound peace* of the *rights of one part of* the *empire to* the *interests of another part.* What would *Massachusetts say to a* proposition for *ceding to Britain her right of fishery* as the *price of some stipulations* in *favor of Tobacco.*

Again can there be a more short-sighted or dishonorable policy than to concur with *Sp*[n] *in frustrating* the benevolent views of nature to sell the *affections of our ultra-montane brethren* to *depreciate* the *richest fund we possess* to *distrust an ally* whom we know to be *able to befriend us* and to have an interest in doing it against the only *nation whose enmity* we can dread, and at the same time to *court* by the most *precious sacrifices* the *alliance of a nation* whose impotency is notorious, who has *given no proof of* regard for *us and* the *genius* of *whose Government religion* & *manners* unfit them of all the *nations in christendom* for a coalition *with this country.* Can anything too, as you well observe, be more unequal than a stipulation which is to *open all our ports to her* and some only and *those the least valuable of hers to us;* and which places the commercial freedom of our *ports ag*[st] the *fettered* reg-

ulations of *those in Spain.* I always thought the stipulation with *france* & *Holld.* of the *privileges* of the *most favoured nation* as *unequal*, and only to be justified by the influence which the *treaties* could not fail to have on the *event of the war.* A stipulation putting *Spanish subjects* on the same footing *with our own citizens* is carrying the *evil still farther* without the same pretext for it; and is the more to be dreaded, as by making *her* the *most favored nation* it would let in the other *nations* with whom we are now *connected* to the same privileges, whenever they may find it their interest to make the same *compensation for them* whilst we have not a reciprocal right to force them into such an arrangement in case our interest should dictate it. A *guaranty* is if possible still more objectionable. If it be insidious we plunge ourselves into *infamy.* If sincere, into obligations the extent of which cannot easily be determined. In either case we get farther into the labyrinth of *european politics* from which we ought religiously to keep ourselves as free as possible. And what is to be gained by ruch a rash step? Will any man in his senses pretend that our territory needs such a safeguard, or that if it were in danger, it is the arm of *Spain that is to save it.* Viewing the matter in this light I cannot but flatter myself, that if the attempt you apprehend should be made it will be rejected with becoming indignation. I am less sanguine as to the issue of the other matter contained in your letter.[1] I know the mutual

[1] The claims of the State against the General Government. See Monroe's letter. *Writings*, i., 135.

prejudices which impede every overture towards a just & final settlement of claims & acc^{ts}. I persist in the opinion that a proper & speedy adjustment is unattainable from any assembly constituted as Cong^{s} is, and acting under the impulse which they must. I need not repeat to you the plan which has always appeared to me most likely to answer the purpose. In the mean time, it is mortifying to see the other States, or rather their Representatives, pursuing a course which will make the case more & more difficult, & putting arms into the hands of the Enemies to every Amendment of our federal system. God knows that they are formidable enough in this State without such an advantage. With it, their triumph will be certain & easy. But I have been led much farther already than I proposed, and will only that

I am with the sincerest affection, your friend & serv^{t}

The inclosed Tickets belong to a very worthy friend who knows not how to obtain a small prize which they have drawn without giving you the trouble of applying for it. He is apprehensive that the door may be already shut agst the demand. If it should not you will kind eno' to call on the proper office and get the proper certificate. There are but 2 of the Tickets I believe which are entitled to prizes, but as they cannot be distinguished here, it must be done by the Register in the office.

TO THOMAS JEFFERSON.

PHILAD^A, Aug: 12th, 1786.

DEAR SIR,—My last of the 19th of June intimated that my next would be from N. York or this place. I expected it would rather have been from the former which I left a few days ago, but my time was so taken up there with my friends and some business that I thought it best to postpone it till my return here. My ride through Virg^a, Mary^d, and Pen^a, was in the midst of harvest. I found the crops of wheat in the upper parts of the two former considerably injured by the wet weather which my last described as so destructive in the lower parts of those States. The computed loss where I passed was about one third. The loss in the Rye was much greater. It was admitted however that the crops of both would have been unusually large but for this casualty. Throughout Pen^a the wheat was unhurt, and the Rye very little affected. As I came by the way of Winchester & crossed the Potowmac at Harper's I had an opportunity of viewing the magnificent scene which nature here presents. I viewed it however under great disadvantages. The air was so thick that distant objects were not visible at all, and near ones not distinctly so. We ascended the mountain also at a wrong place, fatigued ourselves much in traversing it before we gained the right position, were threatened during the whole time with a thunder storm, and finally overtaken by it. Had the weather been favorable the prospect would have appeared to peculiar advantage, being enriched with the harvest in its full maturity,

which filled every vale as far as the eye could reach. I had the additional pleasure here of seeing the progress of the works on the Potowmac. About 50 hands were employed at these falls or rather rapids, who seemed to have overcome the greatest difficulties. Their plan is to slope the fall by opening the bed of the river, in such a manner as to render a lock unnecessary, and, by means of ropes fastened to the rocks, to pull up & ease down the boats where the current is most rapid. At the principal falls 150 hands I was told were at work, and that the length of the canal will be reduced to less than a mile, and carried through a vale which does not require it to be deep. Locks will here be unavoidable. The undertakers are very sanguine. Some of them who are most so talk of having the entire work finished in three years.[1] I can give no particular account of the progress on James River, but am told it is very flattering. I am still less informed of what is doing in North Carolina towards a Canal between her & our waters. The undertaking on the Susquehannah is said to be in such forwardness as to leave no doubt of its success. A negociation is set on foot between Pen[a], Mary[d], & Delaware, for a canal from the head of Chesapeak to the Delaware. Mary[d] as I understand heretofore opposed the undertaking, and Pen[a] means now to make her consent to it a condition on which the opening of the Susquehannah within the

[1] The MSS. records of the Chesapeake and Ohio Canal Company in the office of the Company in Washington show the work referred to here of the Potomac Company.

limits of Pen[a] will depend. Unless this is permitted the opening undertaken within the limits of Maryland will be of little account. It is lucky that both parties are so dependent on each other as to be thus mutually forced into measures of general utility. I am told that Pen[a] has complied with the joint request of Virg[a] and Maryland for a Road between the head of Potowmac and the waters of the Ohio and the secure & free use of the latter through her jurisdiction. These fruits of the Revolution do great honour to it. I wish all our proceedings merited the same character. Unhappily there are but too many belonging to the opposite side of the acc[t]. At the head of these is to be put the general rage for paper money. Pen[a] & N. Carolina took the lead in this folly. In the former the sum emitted was not considerable, the funds for sinking it were good, and it was not made a legal tender. It issued into circulation partly by way of loan to individuals on landed security, partly by way of payment to the public creditors. Its present depreciation is about 10 or 12 per c[t]. In N. Carolina the sums issued at different times has been of greater amount, and it has constantly been a tender. It issued partly in payments to military creditors and latterly, in purchases of Tob[o] on public account. The Agent I am informed was authorised to give nearly the double of the current price, and as the paper was a tender, debtors ran to him with their Tob[o], and the creditors paid the expence of the farce. The depreciation is said to be 25 or 30 per C[t]. in that State. S. Carolina was the next in order. Her emission was in

the way of loans to individuals, and is not a legal tender. But land is there made a tender in case of suits which shuts the Courts of Justice, and is perhaps as great an evil. The friends of the emission say that it has not yet depreciated, but they admit that the price of commodities has risen, which is evidently the form in which depreciation will first shew itself. New Jersey has just issued £30,000 (dollars at 7*s* 6) in loans to her citizens. It is a legal tender. An addition of £100,000 is shortly to follow on the same principles. The terror of popular associations stifles as yet an overt discrimination between it & specie; but as this does not operate in Philad[a] & N. York where all the trade of N. J. is carried on, its depreciation has already commenced in those places & must soon communicate itself to N. J. New York is striking £200,000 (doll[r] at 8*s*.) on the plan of loans to her citizens. It is made a legal tender in case of suits only. As it is but just issuing from the press, its depreciation exists only in the foresight of those who reason without prejudice on the subject. In Rhode Island, £100,000 (dol[r] at 6*s*.) has lately been issued in loans to individuals. It is not only made a tender, but severe penalties annexed to the least attempt direct or indirect to give a preference to specie. Precautions dictated by distrust in the rulers soon produced it in the people. Supplies were withheld from the Market, the Shops were shut, popular meetings ensued, and the State remains in a sort of convulsion.

The Legislature of Mass[ts] at their last Session rejected a paper emission by a large majority. Con-

necticut & N. Hampshire also have as yet forborne, but symptoms of danger it is said begin to appear in the latter. The Senate of Mary[d] has hitherto been a bar to paper in that State. The clamor for it is now universal, and as the periodical election of the Senate happens at this crisis, and the whole body is unluckily by their Constitution to be chosen at once, it is probable that a paper emission will be the result. If, in spite of the zeal exerted ag[st] the old Senate a majority of them should be re-elected, it will require all their firmness to withstand the popular torrent. Of the affairs of Georg[a] I know as little as of those of Kamskatska. Whether Virg[a] is to remain exempt from the epidemic malady will depend on the ensuing Assembly. My hopes rest chiefly on the exertions of Col. Mason and the failure of the experiments elsewhere. That these must fail is morally certain; for besides the proofs of it already visible in some States, and the intrinsic defect of the paper in all, this fictitious money will rather feed than cure the spirit of extravagance which sends away the coin to pay the unfavorable balance, and will therefore soon be carried to market to buy up coin for that purpose. From that moment depreciation is inevitable. The value of money consists in the uses it will serve. Specie will serve all the uses of paper, paper will not serve one of the essential uses of specie. The paper therefore will be less valuable than specie. Among the numerous ills with which this practice is pregnant, one I find is that it is producing the same warfare & retaliation among the States as were produced by the State

regulations of commerce. Mass^{ts} & Connecticut have passed laws enabling their Citizens who are debtors to Citizens of States having paper money, to pay their debts in the same manner as their Citizens who are creditors to Citizens of the latter States are liable to be paid their debts. The States which have appointed deputies to Annapolis are N. Hampshire, Mass^{ts}, R. Island, N. Y., N. J., Pen^{a}., Delaware, & Virg^{a}. Connecticut declined not from a dislike to the object, but to the idea of a Convention, which it seems has been rendered obnoxious by some internal Conventions, which embarrassed the Legislative Authority. Mary^{d}., or rather her Senate negatived an appointment because they supposed the measure might interfere with the plans or prerogatives of Cong^{s}. N. Carolina has had no Legislative meeting since the proposition was communicated. S. Carolina supposed she had sufficiently signified her concurrence in a general regulation of trade by vesting the power in Congress for 15 years. Georgia —— ——. Many Gentlemen both within & without Cong^{s}, wish to make this Meeting subservient to a plenipotentiary Convention for amending the Confederation. Tho' my wishes are in favor of such an event, yet I despair so much of its accomplishment at the present crisis that I do not extend my views beyond a commercial Reform. To speak the truth *I almost despair even of this.*[1] You will find the *cause in a measure* now before *Congress of which you will receive* the *detail* from *Col. Monroe.* I content myself with *hinting* that it is

[1] The portions of the letter in cypher are represented by italics.

a *proposed treaty with Spain* one *article of* which *shuts up the Mississippi twenty-five or thirty years*, passing by the other *Southern States, figure* to yourself the *effect of such a stipulation* on the *Assembly of Virginia*, already *jealous* of *Northern politics* and which will be composed of about *thirty members* from the *Western waters*, of a majority of others attached to the *Western Country from interests* of their *own, of their friend or their constituent*, and of many others who though indifferent to *Mississippi, will zealously* play off the *disgust of* its *friends against federal measures.* Figure to yourself its effect on the *people at large* on the *western waters*, who are impatiently waiting for a *favorable result* to the *negociation with Gardoqui*, & who will consider *themselves* as *sold* by their *Atlantic brethren.* Will it be an unnatural consequence if they consider *themselves absolved* from every *federal tie* and *court some protection* for their *betrayed rights.* This *protection* will appear more attainable from the *maritime power* of *Britain* than from *any other quarter;* and *Britain* will be *more ready than any other nation* to *seize an opportunity of embroiling our affairs.* What may be the motive *with Spain to satisfy herself* with *a temporary occlusion* of the *Mississippi* at the same time that *she holds forth* our *claim to it as absolutely inadmissible is matter for conjecture only.* The *patrons* of the *measure in Congress* contend that the *Minister*, who at present *governs the Spanish councils* means only to *disembarrass himself at the expence* of *the successors.* I should rather suppose *he means to work*

a total separation of *interest and affection between western* & *eastern settlements* and to *foment* the jealousy *between the Eastern* & *Southern States.* By the former the *population of* the *Western Country* it may be expected, will be *checked* and the *Mississippi so far secured;* and by both the general *security of Spanish America* be promoted. As far as I can learn the *assent of nine States* in *Congress* will not at this time be *got to the projected treaty* but an *unsuccessful attempt* by *six or seven* will *favor the views of Spain* and *be fatal I fear* to an *augmentation of* the *federal authority* if not to the *little now existing.* My personal situation is rendered by this business particularly *mortifying.* Ever since I have been *out of Congress I have been inculcating* on our *Assembly a confidence* in the *equal attention of Congress* to the *rights and* interests of *every part of the republic* and on the *Western members* in particular, the necessity of making the Union *respectable by new powers to Congress* if they wished *Congress to negociate with effect for the Mississippi.* I leave to Col. Monroe the giving you a particular account of the Impost. The Acts of Penn[a], Delaware & N. York must be revised & amended in material points before it can be put in force, and even then the fetters put on the collection by some other States will make it a very awkward business. Your favor of 25th of April from London found me here. My letter from Richm[d] at the close of the Assembly will have informed you of the situation in which British debts stand in Virg[a]. Unless Con[s] say something on the subject I do not think anything

will be done by the next Session. The expectations of the British Merchants coincide with the information I had rec[d], as your opinion of the steps proper to be taken by the Assembly do with those for which I have ineffectually contended. The merits of Mr. P[aradise] will ensure every attention from me to his claim as far as general principles will admit. I am afraid that these will insuperably bar his wishes. The Catalogues sent by Mr. Skipwith I do not expect to receive till I get back to Virg[a]. If you meet with "Grœcorum Respublicæ ab Ubbone Emmio descriptæ," Sugd. Batavorum, 1632, pray get it for me.

My trip to N. Y. was occasioned chiefly by a plan concerted between Col. Monroe[1] & myself for a purchase of land on the Mohawk. Both of us have visited that district and were equally charmed with it. The soil is perhaps scarcely inferior to that of Kentucky, it lies within the body of the Atlantic States & at a safe distance from every frontier, it it contiguous to a branch of Hudson's River which is navigable with trifling portages which will be temporary, to tide-water, and is not more than ten 15 or 20 miles from populous settlements, where land sells at £8 to £10 per acre. In talking of this Country some time ago with *General Washington* he considered it in the same light with Monroe and myself, intimating that if he had money to spare and was disposed to deal in land, this is the

[1] Monroe left the White House hopelessly broken in fortune and spent the latter part of his life in absolute poverty. Madison and Jefferson left behind them estates overburdened with debt. No one of the three possessed the talent of either making or saving money. It was this land speculation, however, which Madison believed would make him moderately wealthy.

very Spot which his fancy had selected of all the U. S. We have made a small purchase, and nothing *but the difficulty of raising a* sufficient *sum restrained us* from *making a large one.* In searching for the *means of overcoming this difficulty* one has occurred which we have agreed that *I should mention to you*, and which if *you should think as we do* is *recommended* by the prospect of *advantage to yourself as well as to us.* We mention it *freely because we trust* that *if it does* not *meet with your sanction* ——— *you will as freely tell us so.*[1] It is that the *aid of your credit* in *your private capacity* be *used for borrowing* say *four or five thousand louis* more or less, on the *obligation of Monroe* and myself *with your suretyship* to be laid out by *Monroe and myself* for *our triple emolument* on *interest not exceeding six p. cent* to be *paid annually* and the *principle within a term* not less than *eight or ten years.* To guard agst accidents a private *instrument* might be *executed among ourselves such writing specifying all necessary covenants.* We have not taken the resolution of *this plan without well examining* the expediency of *your becoming a party to it* as well as the *prospect of its succeeding.* There can certainly be *no impropriety in your* taking *just means of bettering your fortune*, nor can *we discover in your doing this on* the *Mokawk* more than *on james River.* For the prospect of *gain by rise of* the land *beyond* the *interest of the money we calculate* on the present *difference of pri*[*ce*] between the *settled* & *vacant land* far beyond any *possible* difference in the *real value.* The

[1] August 15 Madison sent the substance of this part of the letter to Monroe. Mad. MSS.

former as has been noted *sells for eight or ten pounds per acre.* The latter distinguished only by its being a little *higher up* the *River* & its being *uninhabited* was *bought by us for* one *dollar* & *a half* and there is little doubt that *by taking up a large* quantity, still *better bargains may be got.* This comparative *cheapness* proceeds from causes which are accidental & temporary. The *lands in question* are chiefly in the *hands of men who hold large quantities* and who are either *in debt* or *live in* the *city at an expence* for which *they have no other resource* or are *engaged in transactions* that *require money.* The scarcity of *specie which* enters *much into the cheapness* is probably but temporary also. As it is the *child of extravagance* it will become the *parent of economy*, which will regain us our due share of the *universal medium.* The same vicissitude which can only be retarded by our *short-lived substitutes of paper* will be attended also by such a *fall in the rate of exchange* that *money drawn by bills* from *Europe now* and *repaid a few years hence* will probably *save one years interest at least.* I will only add that scarce an instance has happened in which *purchases of new lands of good quality* and *in good situations* have not *well rewarded the adventurers.* With these remarks which determine *our judgments we submit to your better one* the *project to which they relate.* Wishing you every possible happiness I remain Dr Sir your affectionate friend & Servt

Mrs House and Mrs Trist desire to be particularly remembered to yourself and Miss Patsy. I left with Col Monroe letters for you both from Mrs T. which will probably go by the same packet with this.

TO JAMES MONROE.[1]

PHILADELPHIA, August 17th, 1786.

D^R^ SIR,—I have your favor of the 14th inst. The expedient of which you ask my opinion has received, as it deserved, all the consideration which the time and other circumstances would allow me to give. I think that, in the present state of things, such an arrangement would be beneficial, and even pleasing to those most concerned in it; and yet I doubt extremely the policy of your proposing it to Congress.[2] The objections which occur to me are: 1. That if the temper and views of Congress be such as you apprehend, it is morally certain they would not enter into the accommodation. Nothing, therefore, would be gained, and you would have to combat under the disadvantage of having forsaken your first ground. 2. If Congress should adopt your expedient as a ground of negociation with Guardoqui, and the views of Spain be such as they must be apprehended to be, it is still more certain that it would be rejected on that side, especially under the flattering hopes which the spirit of concession in Congress must have raised. In this event, the patrons of the measure now before

[1] From the Works of Madison.

[2] "It has occurr'd to G[rayson] & myself to propose to Congress that negotiations be carried on with Sp^n^ upon the following principles: 1. That exports be admitted thro' the Mississippi to some free port—perhaps N. Orleans, to pay there a toll to Sp^n^ of ab^t^ 3 p^r^ cent^m^ ad valorem & to be carried thence under the regulations of Congress. 2. That imports shall pass into the Western country thro' the ports of the U. S. only. 3. That this sacrifice be given up to obtain in other respects a beneficial treaty. I beg of you to give me y^r^ opinion on it."—Monroe to Madison, August 14, 1786, *Writings of Monroe*, i., 151, 152.

Congress would return to it with a greater eagerness and with fresh arguments, drawn from the impossibility of making better terms, and from the relaxation into which their opponents will have been betrayed. It is even possible that a foresight of this event might induce a politic concurrence in the experiment.

Your knowledge of all circumstances will make you a better judge of the solidity or fallacy of these reflections than I can be. I do not extend them because it would be superfluous, as well as because it might lead to details which could not prudently be committed to the mail without the guard of a cypher. Not foreseeing that any confidential communication on *paper* would happen between us during my absence from Virginia, I did not bring mine with me.

TO AMBROSE MADISON.[1]

ANAPOLIS, Sep^{t} 8th, 1786.

D^{R} BRO^{R},—I came to this place a day or two ago, where I found two com̃srs only. A few more have since come in, but the prospect of a sufficient n^{o} to make the meeting respectable is not flattering. I was sorry to find in Philad^{a} that the unpunctuality of some of the purchasers of the Tob^{o} had put it out of the power of Mr H. to supply me with all the money become due under the contracts. This unpunctuality owing partly to causes which are felt everywhere, partly to the abolition of the bank, has extended itself to men who have scarcely before afforded room

[1] New York Public Library (Lenox) MSS.

for complaint. The disappointment reduced me to the dilemma of either not executing the commissions for the family & failing in some of my engagements particularly in N. Y. or of leaving you still longer to parry your creditors. Disagreeable as the latter option was I could not but consider it as the lesser inconvenience. Mr H. has promised to spare no efforts to get in the remaining payments as fast as possible, & to send or even bring them to Annapolis in case the session here should be prolonged till a sum worth while shall be collected. If the Session here should be so far shortened as to leave me time I propose to ride back to Philad^a^ & be the bearer of it from thence myself. I shall probably write again to you from this place. I do not write now to my father because I have nothing worth the postage. You will let him know that most of the Articles on his list will probably soon be at Fredg^b^ perhaps sooner than this reaches you. The West Ind^a^ articles were dear & for that reason some of them are abridged in quantity. The other articles were cheap in general, which led me to add several beyond my commission, being well assured that if not wanted they may be either disposed of or exchanged with advantage. . . .

TO JAMES MONROE. MAD. MSS.

ANNAPOLIS, Sepr 11, 1786

DEAR SIR,—I have two letters from you not yet acknowledged, one of the 1st the other of the 3^d^ inst: nothing could be more distressing than the issue of

the business stated in the latter.[1] If the affirmative vote of 7 States s^d^ be pursued it will add the insult of trick to the injury of the thing itself. Our prospect here makes no amends for what is done with you. Delaware N. J. & V^a^ alone are on the ground, two Commiss^rs^ attend from N. Y. & one from P^a^. Unless the sudden attendance of a much more respectable number takes place it is proposed to break up the Meeting, with a recomendation of another time & place, & an *intimation* of the expediency of extending the plan to other defects of the Confederation. In case of a speedy dispersion I shall find it requisite to ride back as far as Philad^a^ before I proceed to Virg^a^ from which place, if not from this, I will let you know the upshot here. I have heard that Col. Grayson was stopped at Trenton by indisposition on his way to the Assembly of Pen^a^. I hope he is well again, & w^d^ write to him but know not whither to address a letter to him.[2]

Adieu. Yrs aff^y^.

[1] The instructions to Jay on the subject of the Mississippi negotiations having been in part repealed, the plan of the friends of the free navigation to order the transfer of negotiations to Madrid was blocked by a newly-adopted rule of Congress "that we shall not move in form or substance any proposition which has been set aside by the previous question, unless the same number of States are present."—Monroe to Madison, *Writings of Monroe, i., 159, 160.*

[2] The following bill is of interest as showing what Madison's expenses were while he was attending the Annapolis convention:

"COLONEL MADISON'S BILL 1786

"Septr 5	Lodging & Breakfast 3/9 Dinner 3/9.....	£	0.	7. 0
	wine 3/9 punch 2/6 porter 2/6.....		0.	8. 9
	punch 1/ serv^t^ Board 12/.....		0.	13. 0
6	Lodging & Breakfast 3/9 wine 2/6.....		0.	6. 3
	porter 2/6 Dinner 3/9. Servt Grog 1/.....		0.	7. 3
	Board for Servt 6/.....		0.	6. 0

TO JAMES MONROE. MAD. MSS.

PHILAD^A, Octr 5th, 1786.

DEAR SIR,—I rec^d yesterday your favor of the 2^d inst: which makes the third for which my acknowledgments are due. The progression which a certain measure [1] seems to be making is an alarming proof of the predominance of temporary and partial interests over those just & extended maxims of policy, which have been so much boasted of among us and which alone can effectuate the durable prosperity of the Union. Should the measure triumph under the patronage of 9 States or even of the whole thirteen, I shall never be convinced that it is expedient, be-

" Septr 7	Lodging and Breakfast 3/9 Tea 1/10	£	0.	5. 7
	Servt Board 6/		0.	6. 0
8	Lodging and Breakfast 3/9 Servt Board 6/	"		9. 9
9	Lodging and Breakfast 3/9 Punch 1/3		0.	5. 0
	Dinner and Club 8/9 Tea 1/10 Servt Board 6/	"		16. 7
10	Lodging and Breakfast 3/9 Tea 1/10 Servt board 6/	"		11. 7
11	Lodging & Breakfast 3/9 Dinner 3/9 Club 5/	"		12. 6
	Tea 1/10 Servt Board 6/	"		7. 10
12	Lodging & Breakfast 3/9 Dinner & Club 8/9	"		12. 6
	Tea 1/10 Servt Board 6/	"		7. 10
13	Lodging & Breakfast 3/9 Servt Board 6/	"		9. 9
	Stabling & hay 45/ Oats 56 Gallons @ 10^d 46/8/		4.	11. 8
	Omited the 4th Punch 2/6 Supper 3/ serv^t d^o 2/	"		7. 6
	Hay and Oats 6/8	"		6. 8
14	Lodging & Breakfast 3/9 Dinner & Club 10/9		0.	14. 6
	Serv^ts Board 6/ Hay & Oats 11. 8		0.	11. 8
		£	14.	5. 8
15	Lodging 1/ Servt. 6/			1. 6
		£	14.	7. 2

Contents Received in full
Geo Mann." *Mad. MSS.*

[1] The prospective treaty with Spain closing the navigation of the Mississippi.

cause I cannot conceive it to be just. There is no maxim in my opinion which is more liable to be misapplied, and which therefore more needs elucidation than the current one that the interest of the majority is the political standard of right and wrong. Taking the word "interest" as synonymous with "ultimate happiness," in which sense it is qualified with every necessary moral ingredient, the proposition is no doubt true. But taking it in the popular sense, as referring to immediate augmentation of property and wealth, nothing can be more false. In the latter sense it would be the interest of the majority in every community to despoil & enslave the minority of individuals; and in a federal community to make a similar sacrifice of the minority of the component States. In fact it is only re-establishing under another name and a more specious form, force as the measure of right; and in this light the Western settlements will infallibly view it.

I have considered with attention the paragraph in your last which relates to the further offer of Taylor. It seems to be an inviting one & probably would turn out a good one, yet there are strong objections agst purchasing in the dark or on a vague knowledge of the situation. There would be hazard in the experiment if both parties were on a level, but there would perhaps be rashness in it where one of them proceeds on full information. Circumspection seems also more necessary in proportion to the indulgences proposed in the payments, as they suggest other motives for selling than mere pecuniary difficulties. These objections

may indeed be lessened by taking information at second hand and by supposing the partial payment in hand as the ruling motive of the seller. But still they have considerable weight; and when added to two others are decisive with me agst an immediate contract. I draw the first of these from the numerous disappointments to which I find pecuniary matters in the present state of things are liable, and the mortifications which they involve. The second I draw from a reflection that if we should at the date of future payments have in our hands the means of discharging them, they will as ready money then command as good bargains as can now be made on credit. These remarks you will observe lye agst further speculations at present. The expediency of them under favorable circumstances I view in as strong a light as ever I did, and am happy to find your attention kept up to the subject, and you are gathering information relative to it.

I fear I shall be obliged to accept of your very friendly procrastination of the repayment which ought long ago to have been made. The disappointments which have prevented it, contribute to my delay here at this time, and will together with a vicarious business which I have undertaken for a particular friend, probably spin it out a few days longer. If anything occurs before I set out or on the road I shall not fail to write. Col. Grayson is still here. For a week he has been nearly well. his symptoms of yesterday prove that he has remains of his disorder which require his attention.

Martin did not make his report from Milligan as to the lottery tickets. pray send me the information in your next. Compl[ts] to yr family Adieu

Seal & present the inclosed
if you please.

TO JAMES MONROE. MAD. MSS.

RICHM[D], Oct[r] 30, 1786

DEAR SIR,—I drop you a few lines rather as a fulfilment of my promise than for the purpose of information, since they go by M[r] Jones who is much better acquainted with the politics here than myself. I find with pleasure that the navigation of the Miss[pi] will be defended by the Legislature with as much zeal as could be wished.[1] Indeed the only danger is that too much resentment may be indulged by many ag[st] the federal councils. Paper money has not yet been tried even in any indirect mode that could bring forth the mind of the Legislature. Appearances on the subject however are rather flattering. Mr. H[enry] has declined a reappoint[t] to the office he

[1] The House of Delegates received a memorial from the delegates representing the counties of the district of Kentucky, setting forth that a report prevailed in that district that Congress proposed to cede to Spain the exclusive navigation of the Mississippi for twenty-five or thirty years, in consideration of some commercial advantages, that they conceived it their duty to represent that the prosperity of the Western country was absolutely dependent on the free navigation of that river, as without it they could not carry their produce to market; that Congress could not, without a flagrant violation of the confederation, deprive them of an advantage which nature had thus given them, and for the secure enjoyment of which the federal government was formed. Resolutions and instructions to the delegates in Congress in the sense of the memorial were passed by the House, November 29, 1786.—*Journal of House of Delegates.*

holds, and Mr. Randolph[1] is in nomination for his successor, and will pretty certainly be elected. R. H. L[ee] has been talked of, but is not yet proposed. The appts to Congs are a subject of conversation & will be made as soon as a Senate is made. Mr. Jones will be included in the New Delegation. Your presence & communications on the point of the Missippi are exceedingly wished for and would in several respects be extremely useful. If Mr. Jones does not return in a day or two come without him I beseech you. I am consulted frequently on matters concerning which I cannot or ought not to speak, and refer to you as the proper source of information as far as you may be at liberty. Hasten your trip I again beseech you. I hope Mrs. Monroe continues well. My sincerest respects wait on her. In haste

Adieu. Yrs.

TO JAMES MADISON. MAD. MSS.

RICHMOND Novr 1. 1786.

HON'D SIR,—Jno Tucker & Joe got down this forenoon, with articles sent. I shall execute your instructions as to the advertizements, and the Revised laws, if I can get at the latter time eno' in the morning. I will do the same as to the French Dictv for Mr Taylor if I can effect it in time; if not I will make use of the first succeeding opportunity. I can give you no account of the Key of the Trunk. I suppose it must have been dropped or taken off & not re-

[1] Edmund Randolph was elected.

placed, for keys in such cases are usually fastened to the Trunks. I omitted in my letter from Fred^g^ to mention that I had directed 2 bolts of Oznabergs to be sent along with the other articles from Philad^a^ but as I did it on the like condition of price & quality being approved by Mr H. it is uncertain whether any of the articles will come. I intended it merely as an experiment.

Paper money was the subject of discussion this day, and was voted by a majority of 84 vs 17, to be "unjust, impolitic, destructive of public & private confidence, and[1] of that virtue which is the basis of Republican Government." Our Revenue matters have also been on the anvil, several changes in our taxes are proposed, and it is not unlikely that some will take place. Duties on imports will be urged as far as they can be guarded ag^st^ smuggling by land, as well as by water. Govr Henry declines a reappoint^t^, but does not come into the Assembly. The Attorney or R. H. Lee, probably the former, will supply his place. We learn that great commotions are prevailing in Mass^ts^. An appeal to the Sword is exceedingly dreaded. The discontented it is said are as numerous as the friends of Gov^t^ and more decided in their

[1] The vote appears in the *Journals of the House of Delegates* as 85 to 17. The resolution was: "Resolved, that it is the opinion of this committee, [of the whole] that the petition of sundry inhabitants of the counties of Brunswick and Campbell, praying for an emission of paper money, are unreasonable and ought to be rejected; and that, in the opinion of this committee, an emission of paper money would be unjust, impolitic and destructive of public and private confidence, and of that virtue which is the basis of republican government." Nevertheless, petitions praying for an emission of paper money were received by the House December 7.

measures. Should they get uppermost, it is uncertain what may be the effect. They profess to aim only at a reform of their Constitution and of certain abuses in the public administration, but an abolition of debts public & private, and a new division of property are strongly suspected to be in contemplation. We also learn that a general combination of the Indians threatens the frontier of the U. S. Cong^{s} are planning measures for warding off the blow, one of which is an augmentation of the federal troops to upwards of 2000 men. In addition to these ills, it is pretty certain that a formidable party in Cong^{s} are bent on surrendering the Missis^{pi} to Spain for the sake of some commercial stipulations. The project has already excited much heat within that Assembly & if pursued will not fail to alienate the Western Country & confirm the animosity & jealousy already subsisting between the Atlantic States. I fear that, altho' it should be frustrated, the effects already produced will be a great bar to our amendment of the Confederacy which I consider as essential to its continuance. I have letters from Kentucky which inform me that the expedition agst the Indians has prevented the meeting which was to decide the question of their Independence. It is probable the news relative to the surrender of the Miss^{pi} will lessen the disposition to separate. If the bacon left behind by J^{no} should not have been sent it need not be sent at all. Fresh butter will from time to time, continue to be very acceptable. My best regards to my mother and the family.

Your affec^{t} & dutiful son.

SPEECH IN THE VIRGINIA HOUSE OF DELEGATES, NOVEMBER, 1786, AGAINST PAPER MONEY.[1] MAD. MSS.

Unequal to Specie. 1. being redeemble at future day and not bearing interest. 2. illustrated by [obliterated] of Bank notes—Stock in funds—

[1] Notes on the back of a letter to Madison from Robt. Johnson, dated 23d September, 1786:

Paper Emissions

*Un*equal to specie.	Bank notes. Stock.
Objectn	navy bills. tallies
	Spanish paper *Use*less
*Un*just either to Credts or debtrs	
	1. alloy
	2. Weights & measures
	3. brass made for silver by Romns
	4. Case of debtrs to other States
*Un*constitutional.	1. property decd by bill of Rights
Antifedl	2. trial by Jury
Unnecessary.	1. produce will bring specie
	2. paper in Tobo notes Warrts &c
Hurtful	1. by luxury increase, not cure the evil of scarcity of specie
	2. destroy confidence public & private
	3. source of dissension between States see Confedn as to regulation of coin
	4. enrich collectors, speculators &—
	5. vitiate morals
	6. reverse the end of Govt by punishing good Citizens & rewarding bad.
	7. discourage foreign commerce &c
	8. dishonor our Repub [illegible] the eyes of mankind
Examples of other States & during war	
Objectn	paper good formerly
Answer.	1. Not true in N. E. Va Maryd 12 to 20 Per Ct
	2. Confidence then
	3. principles of money not then understood
	Such wd not then nor now do in Europe
Advantages from rejectg paper	
	1. Distinguish the State & its credit
	2. draw comerce & specie
	3. Not honorable [example] to other states.

—*Mad. MSS.*

paper of Spain issued during late war [see Neckar on finance]. Navy bills—tallies. 3. being of less *use* than specie which answers externally as well as internally—must be of *value* which depends on the use.

Unjust. 1. to creditors if a legal tender. 2 to debtors if not legal tender, by increasing difficulty of getting specie. This it does by increasing extravagance & unfavourable balance of trade—& by destroying that confidence between man & man, by which resources of one may be comãnded by another. Illustrated 1 by raising denomination of coin 2. increasing alloy of d^{o} brass made as silver by the Romans according to Sallust.[1] 3 by changing weights & measures. 4. by case of creditors within who are debtors without the State.

Unconstitutional 1. Affects rights of property as much as taking away equal value in land; illustr^{d} by case of land p^{d} for down & to be convey^{d} in future, & of a law permitting conveyance to be satisfied by conveying a part only—or other land of inferior quality—2. affects property without trial by Jury.

[1] Shortly after Cicero's first great speech against Catiline, Catiline's friend, Caius Manlius, despatched deputies to the Roman general, Quintus Marcius Rex, with instructions to say, among other things: "Often have your forefathers, taking compassion on the Roman people, relieved their poverty by their decrees; and very recently, within our memory, *silver was paid with brass*, owing to the pressure of debt, with the approval of all good citizens."—Sallust's *Conspiracy of Catiline*, ch. 33. The payments were in pursuance of a law proposed by L. Valerius Flaccus, Consul, A. U. C. 667. Only the fourth part was paid, an *as* for a *sestertius*, and a *sestertius* for a *denarius*.

Antifederal. Right of regulating coin given to Cong^{s} for two reasons. 1. for sake of uniformity. 2. to prevent fraud in States towards each other or foreigners. Both these reasons hold equally as to paper money.

Uñecessary. 1. produce of country will bring in specie, if not laid out in superfluities. 2. Of paper, if necessary, eno' already in Tob^{o} notes, & public securities—3. the true mode of giving value to these, and bringing in specie is to enforce Justice & taxes.

Pernicious. 1. by fostering luxury, extends instead of curing scarcity of specie—2. by disabling compliance with requisition of Cong^{s} 3. serving dissentions between States. 4. destroy^{g} confidence between individuals. 5. discouraging coñerce—6 enrich^{g} collectors & sharpers—7. vitiating morals. 8. reversing end of Gov^{t} which is to reward best & punish worst. 9. conspiring with other States to disgrace Republican Gov^{ts} in the eyes of mankind.

Objection. paper money good before the War.

Answ^{r} 1. not true in N. Eng^{d} nor in V^{a} where exchange rose to 60 per c^{t} nor in Mary^{d} see Franklyn on paper money 2. confidence then not now. 3. principles of paper credit not then understood. Such w^{d} not then nor now succeed in Great Britain &c.

TO GEORGE WASHINGTON. WASH. MSS.

RICHMOND, Novr 1, 1786.

DEAR SIR,—I have been here too short a time as yet to have collected fully the politics of the Session. In general appearances are favorable. On the question of a paper emission the measure was this day rejected in emphatic terms by a majority of 84 vs. 17. The Affair of the Mississippi is but imperfectly known. I find that its influence on the federal spirit will not be less than was apprehended. The Western members will not be long silent on the subject. I inculcate a hope that the views of Congress may yet be changed and that it would be rash to suffer the alarm to interfere with the policy of amending the Confederacy. The sense of the House has not yet been tried on the latter point. The Report from the Deputies to Annapolis lies on the Table, and I hope will be called for before the business of the Mississippi begins to ferment. Mr. Henry has signified his wish not to be reelected, but will not be in the Assembly. The Attorney & R. H. Lee are in nomination for his successor. The former will probably be appointed, in which case the contest for that vacancy will lie between Col. Innes & Mr. Marshal. The nominations for Cong^{s} are as usual numerous. There being no Senate yet it is uncertain when any of these appointments will take place.

With the sincerest affection & the highest esteem
I am Dear Sir
Y^{r} Obed^{t} & humble Servt

TO GEORGE WASHINGTON. WASH. MSS.

RICHM^D, Novr 8th, 1786.

DEAR SIR,—I am just honoured with your favor of the 5th inst: The intelligence from Genl Knox[1] is gloomy indeed, but is less so than the colours in which I had it thro' another channel. If the lessons which it inculcates should not work the proper impressions on the American public, it will be a proof that our case is desperate. Judging from the present temper and apparent views of our Assembly, I have some ground for leaning to the side of Hope. The vote against paper money has been followed by two others of great importance. By one of them petitions for applying a scale of depreciation to the Military certificates was *unanimously* rejected. By the other the expediency of complying with the Recommendation from Annapolis in favour of a general revision of the federal system was *unanimously* agreed to. A bill for the purpose is now depending and in a form which attests the most federal spirit. As no opposition has been yet made and it is ready for the third reading, I expect it will soon be before the public. It has been thought advisable to give this subject a very solemn dress, and all the weight that could be derived from a single State. This idea will be pursued in the selection of characters to represent Virg^a in the federal convention. You will infer our earnestness on this point from the liberty which will be used of placing your name at the head of them. How far this liberty

[1] Respecting Shay's Rebellion.

may correspond with the ideas by which you ought to be governed will be best decided when it must ultimately be decided. In every event it will assist powerfully in marking the zeal of our Legislature, and its opinion of the magnitude of the occasion. Mr. Randolph has been elected successor to Mr. Henry. He had 73 votes, Col. Bland 28, & R. H. Lee 22. The delegation to Congress drops Col. H. Lee, a circumstance which gives much pain to those who attend to the mortification in which it involves a man of sensibility. I am yet to learn the ground of the extensive disapprobation which has shewn itself.

I am Dear Sir most respectfully & affect^{ly}

Y^{r} Obed^{t} & hble Servt

TO HENRY LEE.[1] MAD. MSS.

(*Copy.*)

RICHMOND Nov. 9th 1786.

DEAR SIR,—The last mail went out at a time when I was so engaged that I could not drop a line to you —the task of first conveying to you the result of the elections for Congress here has therefore probably

[1] "ALEX^{a} 20th Decr 86

"MY DEAR SIR,—After the notification of my disgrace which reached me about the 20th Nov. I hastened from N York & pressed forward to my home. Every difficulty of weather and roads opposed my progress and retarded me effectually, for it took us three weeks to reach this place which I had reckoned on accomplishing in twelve days. At length we arrived on the banks of patomac, and thro our avidity to embrace our friends, were on the point of destruction for some hours, by rashly adventuring to cross in the night, thro' bodies of floating ice. But providence, kinder to me than my beloved country rescued my family & myself, with some detriment of sense but no injury to my reputation—striking difference to be sure, and a theme for unceasing admiration of the Supreme benevolence on my part. This subject always disturbs me & excites

been performed by some of your other friends—The superiority which your reflection and firmness will maintain over the vicissitudes incident to public life, forbids any suggestions which may be calculated to abate a sensibility with regard to them—I will only assure you that the indelicacy of the situation in which your country has placed you is severely felt by those whose esteem you would most value.

The enclosed paper contains all the Legislative information worth giving you—Present my respectful compliments to Mrs Lee, and assure yourself of my sincerest wishes for your happiness—

Yrs Aff^ly^

Js. Madison J^r^

To the
Honble Henry Lee
New York

my resentment. But cruel & ungrateful as I estimate the treatment I have received from the assembly, I am frank to declare to you that the opinion I had formed of your dereliction of the friendship which existed between us rendered my affection doubly severe. In all nations precedents are to be found demonstrative of the caprice & indelicacy of public bodys, therefore being not alone I could have procured repose to my feelings that all who knew me, would attribute my dismission to the proper cause.

"Your abandonment of a man who loved your character to excess & who esteemed your friendship among the first blessings of his life connected with the circumstance of your election to the office from which he was dismissed, together with many other considerations which are unnecessary to repeat wounded me deeply, & has given me many melancholy hours. Your letter of the 11th affords me some relief, & as it explains your intentions which before were subject to conjecture, strengthens my hope that you regard me as I have esteemed you, & that no difference in political sentiments ever has or ever can cool the affection which commenced in our youth, and till very lately has existed in full vigor. It is my wish that we may ever be united, & I believe you cannot question my sentiments, especially, when it relates to you."—Henry Lee to Madison, *Mad. MSS.* Lee was soon restored to favor in the State. Madison wrote to him again November 23^d^.

TO JAMES MADISON. MAD. MSS.

RICHM^D, Novr 16, 1786.

HON^D SIR,—Mr. Anderson in answer to your enquiries tells me that you shall have goods at 87½ per C^t and that he will take Tob^o for his brother if it be ready by the 10th of next month.

The H. of Delegates have done little since my last, and what was then done is still ineffectual for want of a Senate. A proposition for stopping the receipt of indents was made, and met with so little countenance that it was withdrawn. They will continue to be receivable as far as the law now permits, and those who have them not would do well to provide them. A bill is depending which makes Tob^o receivable in lieu of the specie part of the current tax, according to its value at the different Warehouses. Whether it will pass or not is uncertain. I think it most probable that it will pass. Nothing has yet been done as to the certificate tax. I have sent Mr. R. Taylor his French Dict^y by Mr Pannel, its price was 4*s*. With best regards to the family I remain

Y^r dutiful Son

I have a letter from Mr. J. Smith giving me the first information that J. W. & J. M. are not to return to the Academy, and asking for the balance. I hope my brother F. has taken steps for remitting his.

TO HENRY LEE. MAD. MSS.

(*Copy*)

RICHMOND, Nov. 23^d 1786.

DEAR SIR,—I have received your favor of the 11th Instant.—Having never felt an intermission of my

regard for you I cannot be insensible either to the friendship which it speaks on your part or the failure of it, which it supposes on mine—That the latter sentiment should have resulted from a communication which could have no motive but one that ought to have prevented such a consequence, may well fill me with surprise—To the former, as well as to my own feelings, I owe an explanation which might perhaps be put into a more striking dress, if I were less unused to that mode of justifying my friendships—I observe in the first place, that I was not fully aware of the extent to which the event shewed that prejudices had been diffused against you — and that my intimations on that head were meant only to break the force of a disappointment which might fall upon you—This miscalculation of danger was also more natural as I had taken it for granted that one of the gentlemen elected would have been withheld or withdrawn from the nomination—2d. that my own nomination was not suffered to be a bar to any steps in your behalf, which the occasion seemed to call for, and propriety seemed to admit—That it was properly a bar to some steps which in other circumstances might have been taken will be felt by every man who shuns the imputation of arrogantly presuming on his own appointment—and still more arrogantly seeking to annex to it, that of others with whom he chuses to be associated—Whenever indeed an assent to my own nomination to office, shall proceed from no other motive but that of "supporting the temporary wishes of myself," a possibility only of its interference with the consideration

of private friendship, shall not fail to recall it—As long as I continue to be carried into public service by motives more consonant to my professions, a *presumption* at least of such an interference will be held a necessary apology to myself for yielding to that consideration—What share the affair of the Mississippi had in the prejudices raised against you I am not able to say exactly—As far as I could learn the subject was little talked of previous to the election, and I believe your opinions known to but few—As I perceive your suspicions strongly connect this cause with the injury you have sustained, I feel a satisfaction in declaring that in the instances which came within my knowledge, I made it a point to urge the fact that you had invariably obeyed your instructions—that any further instructions therefore might be safely confided to you, and that it would be cruel to sacrifice to possible dangers the feelings of a public servant, who was charged with no breach of duty whatever, and who in other respects had gained distinguished honor to himself and to his country—

In stating these facts I discharge a debt due to truth, to candour, and to the friendship which has subsisted between us—The full approbation which my own mind gives to the part taken by me, leaves nothing to be added, but a return of my wishes for your health and happiness—

Adieu, sincerely yrs

J^{s} MADISON J^{R}

Henry Lee Jun. Esq.
Alexandria

TO JAMES MADISON. MAD. MSS.

Novr. 24. 1786.

Hon^{D} Sir,—The H. of D. have just past a bill making Tob^{o} receivable in the tax at the market price at the several Warehouses to be fixt by the Executive. There is a proviso that the highest price shall not exceed 28*s*. An equality of price throughout was contended for which I disapproved 1. because I think it would have been unjust. 2 because the bill could not have been carried in that form. I was not anxious for its success in any form, but acquiesced in it as it stands as the people may consider it in the light of an easement, and as it may prevent some worse project in the Assembly. I have in my hands about 300 doll^{rs} in indents the property of a friend in Philad^{a} which may be applied to your taxes at the market value if you chuse to take them. A call of the House stops me.

TO THOMAS JEFFERSON. MAD. MSS.

Richm^{D} Decr 4, 1786.

Dear Sir,—Your last favor which was of the 25th of April, has already been acknowledged. My last inclosing a letter from Mrs Carr, was dated a few days ago only. It was put into the hands of Mos^{r} Chevalier who has gone to N. York, whither I shall forward this to his care. He is to embark in the packet which will sail on the 15th inst: The recommendation from the meeting at Annapolis of a plenipotentiary Convention in Philad^{a} in May next has been well rece^{d} by the Assembly here. Indeed

the evidence of dangerous defects in the confederation has at length proselyted the most obstinate adversaries to a reform. The unanimous sanction given by the Assembly to the inclosed compliance[1] with the Recommendation marks sufficiently the revolution of sentiment which the experience of one year has effected in this Country. The deputies are not yet appointed. It is expected that Gen! Washington, the present Govr E. Randolph, Esqr & the late one Mr Henry, will be of the number.[2]

The project for bartering the Missipi to Spain was brought before the Assembly after the preceding measure had been adopted. The report of it having reached the ears of the Western Representatives, as many of them as were on the spot, backed by a number of the late officers, presented a memorial, full of consternation & complaint; in consequence of which some very pointed resolutions by way of instruction to the Delegates in Cong^s were *unanimously* entered into by the House of Delegates. They are now be-

[1] "Resolved unanimously, That an act ought to pass, in conformity to the report of the Commissioners assembled at Annapolis on the 14th of September last, for appointing Commissioners on the part of this State, to meet Commissioners on the part of the other States, in Convention at Philadelphia, on the second Monday in May next, with powers to devise such further provision as shall appear to them necessary to render the constitution of the federal government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled, as when agreed to by them, and afterwards confirmed by the Legislature of every State, will effectually provide for the same."

The resolution was written by Madison. The copy enclosed was contained in a newspaper clipping.

[2] Henry refused to serve. The full Virginia delegation consisted of Madison, Wythe, Randolph, Mason, Blair and McClurg.

fore the Senate who will no doubt be also unanimous in their Concurrence.

The question of paper money was among the first with which the Session opened. It was introduced by petitions from two Counties. The discussion was faintly supported by a few obscure patrons of the measure, and on the vote it was thrown out by 85 vs 17. A petition for paying off the public securities according to a scale of their current prices, was *unanimously* rejected.

The consideration of the Revised Code has been resumed & prosecuted pretty far towards its conclusion. I find however that it will be impossible as well as unsafe to give an ultimate fiat to the System at this session. The expedient I have in view is to provide for a supplemental revision by a comtee who shall accommodate the bills skipped over, and the subsequent laws, to such part of the code as has been adopted, suspending the operation of the latter for one year longer. Such a work is rendered indispensable by the alterations made in some of the bills in their passage, by the change of circumstances which call for corresponding changes in sundry bills which have been laid by, and by the incoherence between the whole code & the laws in force of posterior date to the code. This business has consumed a great deal of the time of two Sessions, and has given infinite trouble to some of us. We have never been without opponents who contest at least every innovation inch by inch. The bill proportioning crimes & punishments on which we were wrecked

last year, has after undergoing a number of alterations, got thro' a Committee of the whole; but it has not yet been reported to the House, where it will meet with the most vigorous attack. I think the chance is rather against its final passage in that branch of the Assembly, and if it should not miscarry there, it will have another gauntlet to run through the Senate.

The bill on the subject of Education which could not safely be brought into discussion at all last year, has undergone a pretty indulgent consideration this. In order to obviate the objection from the inability of the Country to bear the expence, it was proposed that it should be passed into a law, but its operation suspended for three or four years. Even in this form however there would be hazard in pushing it to a final question, and I begin to think it will be best to let it lie over for the supplemental Revisors, who may perhaps be able to put it into some shape that will lessen the objection of expence. I should have no hesitation at this policy if I saw a chance of getting a Committee equal to the work of compleating the Revision. M[r] Pendleton is too far gone to take any part in it. Mr. Wythe I suppose will not decline any duty which may be imposed on him, but it seems almost cruel to tax his patriotic zeal any farther. M[r] Blair is the only remaining character in which full confidence could be placed.

The delay in the administration of Justice from the accumulation of business in the Gen[l] Court, and de-

spair of obtaining a reform according to the Assize plan, have led me to give up this plan in favor of district Courts; which differ from the former in being clothed with all the powers of the Gen! Court within their respective districts. The bill on the latter plan will be reported in a few days and will probably tho' not certainly be adopted.

The fruits of the impolitic measures taken at the last Session with regard to taxes are bitterly tasted now. Our Treasury is empty, no supplies have gone to the federal treasury, and our internal embarrassments torment us exceedingly. The present Assembly have good dispositions on the subject, but some time will elapse before any of their arrangements can be productive. In one instance only the general principles of finance have been departed from. The specie part of the tax under collection is made payable in Tob° This indulgence to the people as it is called & considered was so warmly wished for out of doors, and so strenuously pressed within that it could not be rejected without danger of exciting some worse project of a popular cast. As Tob° alone is made commutable, there is reason to hope the public treasury will suffer little if at all. It may possibly gain.

The Repeal of the port bill has not yet been attempted. Col. Mason has been waited for as the hero of the attack. As it is become uncertain whether he will be down at all, the question will probably be brought forward in a few days. The repeal were he present would be morally certain. Under the disadvantage of his absence it is more than probable. The

question of British debts has also awaited his patronage. I am unable to say what the present temper is on that subject, nothing having passed that could make trial of it. The repeated disappointments I have sustained in efforts in favor of the Treaty make me extremely averse to take the lead in the business again.

The public appointm^ts^ have been disposed of as follows: The contest for the chair lay between Col. Bland & Mr Prentis. The latter prevailed by a majority of near 20 votes. Mr Harrison the late Speaker lost his election in Surry which he represented last year; and since has been equally unsuccessful in his pristine County Charles City where he made a second experiment. In the choice of a Governor Mr E. Randolph had a considerable majority of the whole on the first ballot. His competitors were Col. Bland & R. H. Lee, each of whom had between 20 & 30 votes. The delegation to Cong^s^ contained under the first choice Grayson, Carrington, R. H. Lee, Mr. Jones & myself. Col. H. Lee of the last delegation was dropt. The causes were different I believe & not very accurately known to me. One of them is said to have been his supposed heterodoxy touching the Missip^pi^ Mr Jones has since declined his appointm^t^, & Col. Lee has been reinstated by an almost unanimous vote. A vacancy in the Council produced by the Resignation of Mr. Roane is filled by Mr. Bolling Starke. Cyrus Griffin was a candidate but was left considerably in the rear. The Attorney Generalship has been conferred on Col. Innes. Mr Marshall had a handsome vote.

Our summer & fall have been wet beyond all imagination in some places, and much so everywhere. The crops of corn are in general plentiful. The price up the country will not exceed 8*s* or 10*s*. In this district it is scarcest & dearest, being already as high as 12*s* or 15*s*. The crop of Tob^o^ will fall short considerably it is calculated of the last year's. The highest & lowest prices in the Country of the new crop are 25*s* & 20*s*. A rise is confidently expected.

My next will be from N. Y. whither I shall set out as soon as the principal business of the Session is over. Till my arrival there I postpone communications relative to our national affairs, which I shall then be able to make on better grounds, as well as some circumstances relative to the affairs of this State, which the hurry of the present opportunity restrains me from entering into.

Adieu.

TO GENERAL WASHINGTON. MAD. MSS.

RICHMOND, Decr 7, 1786

DEAR SIR,—Notwithstanding the communications in your favor of the 18th Ult^o^, which has remained till now unacknowledged, it was the opinion of every judicious friend whom I consulted, that your name could not be spared from the Deputation to the Meeting in May at Philadelphia. It was supposed in the first place, that the peculiarity of the Mission, and its acknowledged pre-eminence over every other public object, may possibly reconcile your undertaking it,

with the respect which is justly due, & which you wish to pay, to the late officers of the Army; and in the second place, that although you should find that or any other consideration an obstacle to your attendance on the service, the advantage of having your name in the front of the appointment, as a mark of the earnestness of Virg[a], and an invitation to the most select characters from every part of the Confederacy, ought at all events to be made use of. In these sentiments I own I fully concurred, and flatter myself that they will at least apologize for my departure from those held out in your letter. I even flatter myself that they will merit a serious consideration with yourself, whether the difficulties which you enumerate ought not to give way to them.

The affair of the Mississippi which was brought before the Assembly in a long Memorial from the Western members and some of the Officers, has undergone a full consideration of both Houses. The Resolutions printed in the papers were agreed to unanimously in the House of Delegates. In the Senate, I am told, the language was objected to by some members, as too pointed. They certainly express in substance the decided sense of the country at this time on the subject, and were offered in the place of some which went much farther, and which were in other respects exceptionable. I am entirely convinced, from what I observe here, that unless the project of Congress (for ceding to Spain the Mississippi for 25 years) can be reversed, the hopes of carrying this State into a proper federal system will

be demolished. Many of our most federal leading men are extremely soured with what has already passed. Mr. Henry, who has been hitherto the Champion of the federal cause has become a cold advocate, and in the event of an actual sacrifice of the Mississippi by Congress, will unquestionably go over to the opposite side. I have a letter from Col. Grayson of late date which tells me that nothing further has been done in Congress, and one from Mr A. Clarke of New Jersey, which informs me that he expected every day, instructions from his Legislature for reversing the vote given by the Delegates of that State in favor of the project.

The temper of the Assembly at the beginning of the Session augured an escape from every measure this year not consonant to the proper principles of Legislation. I fear now that the conclusion will contradict the promising outset. In admitting Tobacco for a commutable, we perhaps swerved a little from the line in which we set out. I acquiesced in the measure myself as a prudential compliance with the clamours within doors & without, and as a probable means of obviating more hurtful experiments. I find however now, that it either had no such tendency, or that schemes were in embryo which I was not aware of. A bill for establishing District Courts, has been clogged with a plan for installing all debts now due, so as to make them payable in three annual portions. What the fate of the experiment will be I know not. It seems pretty certain, that if it fails, the bill will fail with it. It is urged in support of the measure that it

will be favorable to debtors and creditors both, and that, without it the bill for accelerating justice would ruin the former, and endanger the public repose. The objections are so numerous, and of such a nature, that I shall myself give up the bill rather than pay such a price for it.

With unfeigned affection, &c.

TO JAMES MADISON. MAD. MSS.

RICHM^D Decr 17th 1786

HOND SIR,—Yours by Mr Porter has been handed to me. I have not had an opp^y of enquir^g of Mr Anderson concerning the person who is to receive Tob^o for his brother. I mentioned before that the rate of indents here was about a dollar in the pound. Whether I can get the certificates for your taxes I cannot say, nor do I know the rate at which they pass. Mr Jones has returned hither & declines his app^t to Cong^s Fresh butter will be very acceptable, the supply sent being already out. No other article of provisions is wanted, as we dine at a Tavern. I propose to go from Fred^g to N. York in the Stage, & shall consequently take no horses with me. When I shall set out I can not decide, but expect to leave this before Xmas sometime. The representation of the State in Cong^s during the winter will be so precarious that I shall be able to stay a day or two only in Orange.[1] I have other reasons also of a public nature

[1] "The truth is, we have not a government to wield and correct. . . . We have only four States now on the floor."—Carrington to Madison, from Congress, December 18, 1786. Mad. MSS.

for wishing to hasten my journey, and a private one arising from the probable increase of the cold in case of delay. Tell my brother Ambrose, I wish him to *sound* Mr Cowherd as to the possibility of his making a payment before the first of Jany instead of the time fixed. I will abate a reasonable interest, and be obliged to him into the bargain. My affections to the family. Yr dutiful son

Js Madison Jr.

I wish my cloathes so far as they may require little amendmts to be put in order before I get to Orange, that I may not be detained on that score.

TO JAMES MONROE. MAD. MSS.

Richmd, Decr 21st, 1786.

Dear Sir,—Your favor of the 16th inst: came to hand too late the evening before last to be then answered. The payment of the 100 drs here was perfectly convenient, and I have put that sum into the hands of Mr Jones to be applied to the use which you have directed. This payment added to the 100 drs paid in Philada leaves still a balance of 137½ according to my memorandm which is subject to your further orders. We hear nothing from any of the other States on the subject of the federal Convention. The ice seems to have intercepted totally the Northern communication for a considerable time past. The Assembly have been much occupied of late with the bill for district Courts. On the final question there was a majority of one agst it in fact, though on the count a mistake

made the division equal & it fell to the Chair to decide who passed the bill. The real majority however were sensible of the mistake & refused to agree to the title, threatening a secession at the same time. The result was a compromise that the question s.d be decided anew the next morning, when the bill was lost in a full house by a single voice. It is now proposed to extend the Session of the Gen.l Court so as to accelerate the business depending there. We hear that Maryland is much agitated on the score of paper money the H. of Delegates having decided in favour of an emission. Adieu. Y.rs Aff.y

TO GEORGE WASHINGTON. MAD. MSS.

RICHMOND, Dec.r 24, 1786.

DEAR SIR,—Your favor of the 16th instant came to hand too late on thursday evening to be answered by the last mail. I have considered well the circumstances which it confidentially discloses, as well as those contained in your preceding favor.[1] The difficulties which they oppose to an acceptance of the appointment in which you are included can as little be denied, as they can fail to be regretted. But I

[1] Washington declined re-election to the presidency of the Society of the Cincinnati, chiefly because he did not wish to participate in a contest over a proposed change in the plan of the society, which was to be discussed at the meeting to be held at Philadelphia in May. He gave, as his reasons for not attending, his occupations, his precarious health, and that he desired to live in retirement. To serve in the federal convention when the Cincinnati were in session might put him in a false position. He finally yielded, however, to the pleadings of his friends. Washington to Madison, December 16, 1786, Ford's *Writings of Washington*, II, 92, *et seq.*

still am inclined to think that the posture of our affairs, if it should continue, would prevent every criticism on the situation which the contemporary meetings would place you in; and that at least a door could be kept open for your acceptance hereafter, in case the gathering clouds became so dark & menacing as to supersede every consideration but that of our national existence & safety. A suspence of your ultimate determination would be nowise inconvenient in a public view, as the Executive are authorised to fill vacancies; and can fill them at any time; and, in any event, three out of seven deputies are authorized to represent the State. How far it may be admissible in another view, will depend perhaps in some measure on the chance of your finally undertaking the service; but principally on the correspondence which is now passing on the subject between yourself and the Governor.

Your observations on Tobacco as a commutable in the taxes are certainly just & unanswerable. My acquiescence in the measure was against every general principle which I have embraced, and was extorted by a fear that some greater evil under the name of relief to the people would be substituted. I am far from being sure however that I did right. The other evils contended for have indeed been as yet parried, but it is very questionable whether the concession in the affair of the Tob^{o} had much hand in it. The original object was paper money. Petitions for graduating certificates succeeded. Next came instalments. And lastly a project for making property a tender for

debts at $\frac{1}{5}$ of its value. All these have been happily got rid of by very large majorities. But the positive efforts in favor of Justice have been less successful. A plan for reforming the administration in this branch accommodated more to the general opinion than the Assize plan got as far as the third reading, and was then lost by a single vote. The Senate would have passed it readily, and would have even added amendments of the right complexion. I fear it will be some time before this necessary reform will again have a fair chance. Besides some other grounds of apprehension, it may well be supposed that the Bill which is to be printed for consideration of the public, will, instead of calling forth the sanction of the wise & virtuous, be a signal to interested men to redouble their efforts to get into the Legislature. The Revenue business is still unfinished. The present rage seems to be to draw all our income from trade. From the sample given of the temper of the House of Delegates on this subject, it is much to be feared that the duties will be augmented with so daring a hand, that we shall drive away our trade instead of making it tributary to our treasury. The only hope that can be indulged is that of moderating the fury. The Port bill was defended against a repeal by about 70 votes against about 40. The revised code is not quite finished and must receive the last hand from a succeeding assembly. Several bills of consequence being rendered unfit to be passed in their present form by a change of circumstances since they were prepared, necessarily require revision. Others as the

Education bill &c are thought to be adapted only to a further degree of wealth and population. Others, as the Execution bill which subjects lands to debts, do not find yet an adequate patronage. Several bills also, and particularly the bill relating to crimes & punishments, have been rejected, and require reconsideration from another assembly. This last bill after being purged of its objectionable peculiarities, was thrown out on the third reading by a single vote. It will little elevate your idea of our Senate to be told that they negatived the bill defining the privileges of ambassadors, on the principle, as I am told, that an alien ought not to be put on better ground than a citizen. British debts have not yet been mentioned, and probably will not, unless Congress say something on the matter before the adjournment.

With every sentiment of esteem &c &c.

TO EDMUND PENDLETON. Mad. Mss.

RICHMOND, Jany 9th, 1787.

MY DEAR SIR,—Your favor of the 9th ult, has been so long on hand unanswered that I can not now acknowledge it without observing in the apology for the delay that I waited for some measures of which I wished to communicate the event. The district bill of which I formerly made mention, was finally thrown into a very curious situation, and lost by a single voice. I refer you for its history to Col. Pendleton, who was here at the time and is now with you. An attempt has been since made to render the General Court more

efficient by lengthening its terms, and transferring the criminal business to the Judges of the Admiralty. As most of the little motives which co-operated with a dislike to Justice, in defeating the District Bill happened to be in favour of the subsequent attempt, it went through the House of Delegates by a large Majority. The Senate have disappointed the majority infinitely in putting a negative on it, as we just learn that they have done, by a single voice. An amendment of the County Courts has also been lost, through a disagreement of the two Houses on the subject. Our merit on the score of Justice has been entirely of the negative kind. It has been sufficient to reject violations of this cardinal virtue, but not to make any positive provisions in its behalf.

The revised code has not been so thoroughly passed as I hoped at the date of my last. The advance of the Session, the coldness of a great many, and the dislike of some to the subject, required that it should be pressed more gently than could be reconciled with a prosecution of the work to the end. I had long foreseen that a supplemental revision as well of some of the articles of the Code, as of the laws passed since it was digested, would become necessary, and had settled a plan for the purpose with myself. This plan was to suspend the laws adopted from the code, until the supplement could be prepared, and then to put the whole in force at once. Several circumstances satisfied me of late that if the work was put within the reach of the next assembly, there would be danger not only of its being left in a mutilated state, but of

its being lost altogether. The observations in your favor above acknowledged, encouraged me to propose that the parts of the code adopted should take effect without waiting for the last hand to it. This idea has been pursued, and the bills passed at the last Session are to comence as then determined, those passed at the present being suspended until July next. I would myself have preferred a suspension of the former also till July, for the sake of a more thorough promulgation, and of a cotemporary introduction of the laws many of which are connected together; but the Senate thought otherwise, and in a ticklish stage of the Session, the friends of the code in the H. of D. joined me in opinion that it would be well to create no unnecessary delays or disagreements. I have strong apprehensions that the work may never be systematically perfected for the reasons which you deduce from our form of Government. Should a disposition however continue in the Legislature as favorable as it has been in some stages of the business, I think a succession of revisions, each growing shorter than the preceding, might ultimately bring a completion within the compass of a single Session. At all events, the invaluable acquisition of important bills prepared at leisure by skilful hands, is so sensibly impressed on thinking people by the crudeness and tedious discussion of such as are generally introduced, that the expence of a continued revision will be thought by all such to be judiciously laid out for this purpose alone. The great objection which I personally feel arises from the necessity we are under of imposing the weight of

these projects on those whose past services have so justly purchased an exemption from future labours. In your case the additional consideration of ill health, became almost an affair of Conscience, and I have been no otherwise able to stifle the remorse of having nominated you along with Mr Wythe and Mr Blair for reviewing the subject left unfinished, than by reflecting that your colleagues will feel every disposition to abridge your share of the burden, and in case of such an increase of your infirmity as to oblige you to renounce all share, that they are authorised to appoint to, I will not say to *fill*, the vacancy. I flatter myself that you will be at least able to assist in general consultations on the subject, and to adjust the bills unpassed to the changes which have taken place since they were prepared. On the most unfortunate suppositions my intentions will be sure to find in your benevolence a pardon for my error.

The Senate have saved our commerce from a dreadful blow which it would have sustained from a bill passed in the H. of D. imposing enormous duties, without waiting for the concurrence of the other States or even of Maryland. There is a rage at present for high duties, partly for the purpose of revenue, partly of forcing manufactures, which it is difficult to resist. It seems to be forgotten in the first case that in the arithmetic of the customs as Dean Swift observes 2 & 2 do not make four; and in the second that manufactures will come of themselves when we are ripe for them. A prevailing argument among others on the subject is that we ought not to be dependent on

foreign nations for useful articles, as the event of a war may cut off all external supplies. This argument certainly loses its force when it is considered that in case of a war hereafter, we should stand on a very different ground from what we lately did. Neutral Nations, whose rights are becoming every day more & more extensive, would not now suffer themselves to be shut out from our ports, nor would the hostile Nation presume to attempt it. As far as relates to implements of war which are contraband, the argument for our fabrication of them is certainly good.

Our latest information from the Eastw^d has not removed our apprehensions of ominous events in that quarter. It is pretty certain that the seditious party has become formidable in the Gov^t and that they have opened a comunication with the viceroy of Canada. I am not enough acquainted with the proceedings of Congress to judge of some of the points, which you advert to. The regulations of their land office have appeared to me nearly in the light in which they do to you. I expect to set out in a few days for N. York, when I shall revive my claim to a correspondence which formerly gave me so much pleasure and which will enable me perhaps to answer your queries. The end of my paper will excuse an abrupt but affect^e Adieu.

TO THOMAS JEFFERSON. MAD. MSS.

NEW YORK, Feby 15th, 1787.

DEAR SIR, My last was from Richmond, of the 4th of December, and contained a sketch of our legislative

proceedings prior to that date. The principal proceedings of subsequent date relate as nearly as I can recollect 1st, to a rejection of the Bill on crimes & punishments, which after being altered so as to remove most of the objections as was thought, was lost by a single vote. The rage agst Horse stealers had a great influence on the fate of the bill. Our old bloody code is by this event fully restored, the prerogative of conditional pardon having been taken from the Executive by a judgmt, of the Court of Appeals, and the temporary law granting it to them having expired and been left unrevived. I am not without hope that the rejected bill will find a more favorable disposition in the next Assembly. 2dly. To the bill for diffusing knowledge, it went through two readings by a small majority and was not pushed to a third one. The necessity of a systematic provision on the subject was admitted on all hands. The objections agst that particular provision were 1. the expence, wch was alledged to exceed the ability of the people 2. the difficulty of executing it in the present sparse settlement of the Country. 3. the inequality of the districts as contended by the Western members. The last objection is of little weight and might have been easily removed if it had been urged in an early stage of the discussion. The bill now rests on the same footing with the other unpassed bills in the Revisal. 3dly. To the Revisal at large. It was found impossible to get thro' the system of the late Session, for several reasons. 1. the changes which have taken place since its compilement, in our affairs and our laws; particu-

larly those relating to our Courts, called for changes in some of the bills which could not be made with safety by the Legislature. 2. The pressure of other business which tho' of less importance in itself, yet was more interesting for the moment. 3. the alarm excited by an approach toward the Execution Bill, which subjects land to the payment of debts. This bill could not have been carried, was too important to be lost, and even too difficult to be amended without destroying its texture. 4. the danger of passing the Repealing Bill at the end of the Code, before the operation of the various amendments, &c., made by the Assembly could be leisurely examined by competent Judges. Under these circumstances it was thought best to hand over the residue of the work to our successors, and in order to have it made compleat, Mr. Pendleton, Mr. Wythe, & Blair, were app^{d} a Committee to amend the unpassed bills & also to prepare a supplemental revision of the laws which have been passed since the original work was executed. It became a critical question with the friends of the Revisal whether the parts of the Revisal actually passed sh^{d} be suspended in the mean time, or left to take their operation. The first plan was strongly recommended by the advantage of giving effect to the system at once, and by the inconveniency arising from the latter of leaving the old laws to a constructive repeal only. The latter notwithstanding was preferred as putting the adopted bills out of the reach of a succeeding Assembly, which might possibly be unfriendly to the system altogether. There was good reason to

suspect Mr. *Henry* who will certainly be *then a member*. By suffering the bills which have passed to take effect in the mean time it will be extremely difficult to get rid of them. 4^{thly}. Religion. The Act incorporating the protestant Episcopal Church excited the most pointed opposition from the other Sects. They even pushed their attacks agst the reservation of the Glebes &c., to the church exclusively. The latter circumstance involved the Legislature in some embarrassment. The result was a repeal of the Act, with a saving of the property. 5th. The district Courts. After a great struggle they were lost in the House of Delegates by a single voice. 6^{thly}. taxes; the attempts to reduce former taxes were baffled, and sundry new taxes added, on lawyers, $\frac{1}{10}$ of their fees, on Clks of Courts, $\frac{1}{4}$ of do., on doct^{rs} a small tax, a tax on houses in towns so as to level their burden with that of real estate in the country, very heavy taxes on riding carriages, &c. Besides these an additional duty of 2 per C^{t}. ad valorem on all merchandizes imported in vessels of nations not in treaty with the U. S. an add^{l} duty of 4^{d} on every gallon of wine except French wines and of 2^{d} on every gallon of distilled Spirits except French brandies which are made duty free. The exceptions in favor of France were the effect of the sentiments & regulations communicated to you by Mr Calonne. A printed copy of the communication was rec^{d} the last day of the session in a newspaper from N. York, and made a warm impression on the Assembly. Some of the taxes are liable to objections, and were much complained of. With

the additional duties on trade they will considerably enhance our revenue. I should have mentioned a duty of 6ˢ. per Hhᵈ on Tobᵒ for complying with a special requisition of Congˢ for supporting the corps of men raised for the public security. 7ᵗʰ. the Mississippi. At the date of my last the House of Delegates only had entered into Resolutions agˢᵗ a surrender of the right of navigating it. The Senate shortly after concurred. The States South of Virgᵃ still adhere as far as I can learn to the same ideas as have governed Virginia. N. Jersey one of the States in Congress which was on the opposite side has now instructed her Delegates agˢᵗ surrendering to Spain the navigation of the River even for a limited time. And Penᵃ it is expected will do the same. I am told that Mr. *Jay* has *not ventured to proceed in his project*[1] and I suppose will *not now do it*[1]. 8ᵗʰ. the Convention for amending the federal Constitution. At the date of my last Virgᵃ had passed an Act for appointing deputies. The deputation consists of Genˡ Washington Mʳ Henry, late Govʳ, Mʳ Randolph present Govʳ Mʳ Blair Mʳ Wythe Col. Mason & Jˢ M. N. Carolᵃ has also made an appᵗ, including her present & late Govʳ. S. C. it is expected by her delegates in Congˢ, will not fail to follow these examples. Maryland has determined I just hear to appᵗ but has not yet agreed on her deputies. Delaware, Pennᵃ, & N. Jʸ, have made respectable appointmᵗˢ. N. York has not yet decided on the point. Her Assembly has just rejected the impost which has an unpropitious aspect.

[1] Cypher.

It is not clear however that she may not yet accede to the other measure. Connecticut has a great aversion to Conventions, and is otherwise habitually disinclined to abridge her State prerogatives. Her concurrence nevertheless is not despaired of. Mass^{ts} it is said will concur, though hitherto not well inclined. N. Hampshire will probably do as she does. Rhode Island can be relied on for nothing that is good. On all great points she must sooner or later bend to Mass^{ts} and Connecticut.

Having but just come to this place I do not undertake to give you any general view of American affairs, or of the particular State of things in Mass^{ts}. The omission is probably of little consequence as information of this sort must fall within your correspondence with the office of foreign affairs. I shall not however plead this consideration in a future letter, when I hope to be more able to write fully.

Mr Fitzhugh has paid into my hands for your use £58–6–8 Virg^{a} Currency in discharge of 1000 livres advanced to him in France. He was anxious to have settled it according to the actual exchange instead of the legal one of 33⅓ on the British standard, and even proposed the addition of Interest. I did not hesitate to conclude that I should fulfill your intentions by rejecting both. I have sent to Mrs Carr £25 for the use of your nephews as you directed. The balance is in my hands subject to your orders tho' I shall venture to apply it in the same way if I sh^{d} be apprised of its being necessary to prevent interruption to the studies of the Young gentlemen.

My last informed you of the progress &c. of Master Peter. I have since rec^{d} from the presd^{t} of Hampden Sydny a letter containing the following paragraph "Dabney Carr is a boy of very promising genius & very diligent application. He conducts himself with a good deal of prudence, & I hope will answer the expectations of his friends. I was afraid at first that he was dull or indolent from his appearance, but I find myself agreeably disappointed. His principal study at present is the Latin language, but he is also obliged to pay some attention to his native tongue.

I remain Dr Sir Y^{r} Affec^{te} friend

TO GEORGE WASHINGTON. WASH. MSS.

NEW YORK Feby 21, 1787.

DEAR SIR,—Some little time before my arrival here a quorum of the States was made up and Genl Sinclair put in the Chair. We have at present nine States on the ground, but shall lose South Carolina to-day. Other States are daily expected. What business of moment may be done by the present or a fuller meeting is uncertain.[1] The objects now depending and most immediately in prospect are 1. The Treaty of peace. The Secretary of foreign Affairs has very ably reported a view of the infractions on both sides, his

[1] "Mr. James Madison, a delegate from Virginia, produced his credentials, by which it appears, that on the 7th of November last, he was appointed a delegate to serve in Congress until the first Monday in November, 1787."—*Journals of Congress*, February 12, 1787, vol. xii., p. 9. (Ed. 1801.)

exposition of the contested articles, and the steps proper to be taken by Congress. I find what I was not before apprized of that more than one infraction on our part, preceded even the violation on the other side in the instance of the Negroes. Some of the reasoning on the subject of the debts would be rather grating to Virginia. A full compliance with the Treaty according to judicial constructions, and as a ground for insisting on a reciprocal compliance, is the proposition in which the Report terminates. 2. a Recommendation of the proposed Convention in May. Cong^{s} have been much divided and embarrassed on the question whether their taking an interest in the measure would impede or promote it. On one side it has been urged that some of the backward States have scruples agst acceding to it without some constitutional sanction; on the other that other States will consider any interference of Cong^{s} as proceeding from the same views which have hitherto excited their jealousies. A vote of the Legislature here entered into yesterday will give some relief in the case. They have instructed their delegates in Cong^{s} to move for the recomendation in question. The vote was carried by a majority of one only in the Senate, and there is room to suspect that the minority were actuated by a dislike to the substance rather than by any objections agst the form of the business. A large Majority in the other branch a few days ago put a definitive veto on the Impost. It would seem as if the politics of this State are directed by individual interests and plans, which might be incommoded by

the controul of an efficient federal Government. The four States North of it are still to make their decision on the subject of the Convention. I am told by one of the Massst delegates that the Legislature of that State which is now sitting, will certainly accede and appoint deputies if Cong^{s} declare their approbation of the measure. I have similar information that Connecticut will probably come in, though it is said that the interference of Congress will rather have a contrary tendency there. It is expected that S. Carolina will not fail to adopt the plan, and that Georgia is equally well disposed. All the intermediate States between the former and N. York have already appointed deputies, except Maryland which it is said means to do it, and has entered into some vote which declares as much. Nothing has yet been done by the New Cong^{s} with regard to the Mississippi. Our latest information from Mass^{ts} gives hopes that the meeting or as the Legislature there now style it, the Rebellion is nearly extinct. If the measures however on foot for *disarming* and *disfranchising* those concerned in it should be carried into effect, a new crisis may be brought on. I have not been here long enough to gather the general sentiments of leading characters touching our affairs & prospects. I am inclined to hope that they will gradually be concentered in the plan of a thorough reform of the existing system. Those who may lean towards a Monarchial Gov^{t}, and who I suspect are swayed by very indigested ideas, will of course abandon an unattainable object whenever a prospect opens of rendering the

Republican form competent to its purposes. Those who remain attached to the latter form must soon perceive that it cannot be preserved at all under any modification which does not redress the ills experienced from our present establishments. Virginia is the only State which has made any provision for the late moderate but essential requisition of Cong^{s}, and her provision is a partial one only.

This would have been of earlier date, but I have waited for more interesting subjects for it. I shall do myself the pleasure of repeating the liberty of dropping you a few lines as often as proper occasions arise, on no other condition however than your waiving the trouble of regular answers or acknowledgements on your part.

With the greatest respect and Affection I am Dr Sir

Y^{r} Obed^{t} friend & Servt.

TO EDMUND PENDLETON. MAD. MSS.

NEW YORK, Feby 24, 1787

DEAR SIR,—If the contents of the Newspapers of this place find their way into the gazettes of Richmond you will have learnt that the expedition of Genl Lincoln against the insurgents has effectually dispersed the main body of them. It appears however that there are still some detachments which remain to be subdued, & that the Government of Mass^{ts} consider very strong precautions as necessary agst farther eruptions. The principal incendiaries have unluckily

made off. By some it is said that they are gone to Canada; by others that they have taken shelter in Vermont, and by some that they are opening a communication with the upper parts of this State. The latter suggestion has probably some color, as the Governor here has thought proper to offer rewards for them after the example of Govr Bowdoin. We have no interesting information from Europe.

The only step of moment taken by Cong^s^, since my arrival has been a recommendation of the proposed meeting in May for revising the federal articles. Some of the States, considering this measure as an extra-constitutional one, had scruples ag^st^ concurring in it without some regular sanction. By others it was thought best that Cong^s^ should remain neutral in the business, as the best antidote for the jealousy of an ambitious desire in them to get more power into their hands. This suspense was at length removed by an instruction from this State to its delegates to urge a Recommendatory Resolution in Congress which accordingly passed a few days ago.[1] Notwithstanding this instruction from N. York, there is room to suspect her disposition not to be very federal, a large majority of her House of delegates having very lately entered into a definite refusal of the impost, and the

[1] February 21, "Congress having had under consideration the letter of John Dickinson, Esq; chairman of the commissioners, who assembled at Annapolis, during the last year; also the proceedings of the said commissioners, and entirely coinciding with them, as to the inefficiency of the federal government, and the necessity of devising such farther provisions as shall render the same adequate to the exigencies of the union, do strongly recommend to the different legislatures to send forward delegates, to meet the proposed convention, on the second Monday in May next, at the city of Philadelphia." On motion of the

instruction itself having passed in the Senate by a casting vote only. In consequence of the sanction given by Cong^s, Mass^ts it is said will send deputies to the Convention, and her example will have great weight with the other N. England States. The States from N. C^a to N. Jersey inclusive have made their appointments, except Mary^d, who has as yet only determined that she will make them. The gentlemen here from S. C^a & Georgia, expect that those States will follow the general example. Upon the whole therefore it seems probable that a meeting will take place, and that it will be a pretty full one. What the issue of it will be is among the other arcana of futurity and nearly as inscrutable as any of them. In general I find men of reflection much less sanguine as to the new than despondent as to the present System. Indeed the Present System neither has nor deserves advocates; and if some very strong props are not applied, will quickly tumble to the ground. No money is paid into the public Treasury; no respect is paid to the federal authority. Not a single State complies with the requisitions; several pass them over in silence, and some positively reject them. The payments ever since the peace have been decreasing, and of late fall short even

Massachusetts delegates the following was substituted: "*Resolved*, That in the opinion of Congress, it is expedient, that on the second Monday in May next, a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the articles of confederation, and reporting to Congress and the several legislatures, such alterations and provisions therein, as shall, when agreed to in Congress, and confirmed by the States, render the federal constitution adequate to the exigencies of Government, and the preservation of the Union."—*Journals of Congress*, xii., 13, 14. (Ed. 1801.)

of the pittance necessary for the Civil list of the Confederacy. It is not possible that a government can last long under these circumstances. If the approaching convention should not agree on some remedy, I am persuaded that some very different arrangement will ensue. The late turbulent scenes in Mass^{ts} & infamous ones in Rhode Island, have done inexpressible injury to the republican character in that part of the U. States; and a propensity towards Monarchy is said to have been produced by it in some leading minds.[1] The bulk of the people will probably prefer the lesser evil of a partition of the Union into three more practicable and energetic Governments. The latter idea I find after long confinement to individual speculations & private circles, is beginning to shew itself in the Newspapers. But tho' it is a lesser evil, it is so great a one that I hope the danger of it will rouse all

[1] "Extract of a letter from a Gentleman in Boston of the 4th March 1787 to R. King

"—— has come back from Virginia with news that the commissioners on the part of New York alarmed the Virginia Delegates, with an account that the Commissioners on the part of Massachusetts were for *a monarchy*; that those Delegates wrote their Legislature of it, who shut their Galeries and made a most serious Business of the matter—pray let me know by the next post what you hear of this, and what has been said—

"The Commissioners alluded to, are those who settled the late Territorial Controversy between Massachusetts & New York—

"Mr King presents his compliments to Col. Grayson & Mr Madison, and for the satisfaction of his friend, who wrote the Letter, from which the above is an Extract, begs to be informed whether they have any knowledge of a letter written by the Delegates of Virginia or any of them, containing the information suggested in the Extract, or of any proceedings of the Virginia Legislature of the nature alleged. . . .

"Monday morn^{g}

"11 Mar. 1787." Mad. MSS.

the real friends of the Revolution to exert themselves in favor of such an organization of the confederacy as will perpetuate the Union, and redeem the honor of the Republican name.

I shall follow this introductory letter with a few lines from time to time as a proper subject for them occurs. The only stipulation I expect on your part is that you will not consider them as claiming either answers or acknowledgements; and that you will believe me to be, with sincerest wishes for your health and every other happiness,

Y^r affect^e friend & serv^t

TO GEORGE WASHINGTON. WASH. MSS.

NEW YORK March 18th 1787.

DEAR SIR,—Recollecting to have heard you mention a plan formed by the Empress of Russia for a comparative view of the aborigines of the New Continent, and of the N. E. parts of the old, through the medium of their respective tongues, and that her wishes had been conveyed to you for your aid in obtaining the American vocabularies, I have availed myself of an opportunity offered by the kindness of Mr Hawkins, of taking a copy of such a sample of the Cherokee & Choctaw dialects as his late commission to treat with them enabled him to obtain, and do myself the honor now of inclosing it. I do not know how far the list of words made use of by Mr Hawkins may correspond with the standard of the Empress, nor how far nations so remote as the Cherokees &

Choctaws from the N. W. shores of America, may fall within the scheme of comparison. I presume however that a great proportion at least of the words will answer, and that the laudable curiosity which suggests investigations of this sort will be pleased with every enlargement of the field for indulging it. Not finding it convenient to retain a copy of the inclosed as I wished to do for myself, I must ask the favor of your amanuensis to perform that task for me.

The appointments for the Convention go on very successfully. Since the date of my last, Georgia, S. Carolina, N. York, Mass^{ts}, & N. Hampshire have come into the measure. Georgia & N. Hampshire have constituted their Delegates in Cong^{s} their representatives in Convention. S. Carolina has appointed Mr J. Rutledge, Genl Pinkney, Mr Laurens, Major Butler and Mr Chas Pinkney, late member of Cong^{s}. The deputies of Mass^{ts} are Mr Dana, Mr King, Mr Ghoram, Mr Gerry, Mr Strong. I am told that a Resolution of the Legislature of this State which originated with their Senate lays its deputies under the fetter of not departing from the 5th of the present articles of Confederation. As this Resolution passed before the Recommendatory act of Congress was known, it is conjectured that it may be rescinded; but its having passed at all denotes a much great[er] prevalence of political jealousy in that quarter than had been imagined. The deputation of N. York consists of Col. Hamilton, Judge Yates, and a Mr Lansing. The two last are said to be pretty much linked to the anti federal party here, and are likely of course

to be a clog on their colleague. It is not doubted now that Connecticut & R. Island will avoid the singularity of being unrepresented in the Convention.

The thinness of Cong[s] has been an obstacle to all the important business before them. At present there are nine States on the ground but this number, though adequate to every object when unanimous, makes a slow progress in business that requires seven States only. And I see little prospect of the number being increased.

By our latest and most authentic information from Mass[ts], it would seem that a calm has been restored by the expedition of Gen[l] Lincoln. The precautions taking by the State however betray a great distrust of its continuance. Besides their act disqualifying the malcontents from voting in the election of members for the Legislature &c. another has been passed for raising a corps of 1000 or 1500 men, and appropriating the choicest revenues of the Country to its support. It is said that at least half of the insurgents decline accepting the terms annexed to the amnesty, and that this defiance of the law ag[st] Treason, is countenanced not only by the impunity with which they shew themselves on public occasions, even with insolent badges of their character, but by marks of popular favor conferred on them in various instances in the election to local offices.

A proposition has been introduced & discussed in the Legislature of this State for relinquishing its claim to Vermont, and urging the admission of it into the Confederacy. As far as I can learn difficulties will

arise only in settling the form, the substance of the measures being not disliked by any of the parties. It is wished by those who are not interested in claims to lands within that district to guard agst any responsibility in the State for compensation. On the other side it will at least be insisted that they shall not be barred of the privilege of carrying their claims before a federal Court, in case Vermont shall become a party to the Union. I think it probable if she should not decline becoming such altogether, that she will make two conditions if not more: 1. that neither her boundaries nor the rights of her citizens shall be impeachable under the 9th art: of Confederation. 2. that no share of the public debt already contracted shall be allotted to her.

I have a letter from Col. Jno Campbel,[1] dated at Pittsburg, from wch I gather that the people of that quarter are thrown into great agitation by the reported intention of Cong^{s} concerning the Mississippi, and that measures are on foot, for uniting the minds of all the different settlements which have a common interest at stake. Should this policy take effect I think

[1] "On my way to this place I met a man from the Settlement on Cumberland River in North Carolina who had just come by the way of Kentucky. He informs me that the minds of all the Western People are agitated on account of the proposed cession of the Mississippi navigation to Spain every person talks of it with indignation and reprobates it as a measure of the greatest Injustice and Despotism declaring that if it takes place they will look upon themselves released from all Federal Obligations and fully at Liberty to seek alliances & connections wherever they can find them and that the British Officers at Detroit have already been tampering with them. I am apprehensive that these matters will hasten the separation of the District of Kentucky prematurely from the other part of the State. * * *" John Campbell to Madison, Pittsburgh, February 21, 1787. *Mad. MSS.*

there is much ground to apprehend that the ambition of individuals will quickly mix itself with the first impulses of resentment and interest, that by degrees the people may be led to set up for themselves, that they will slide like Vermont insensibly into a communication and latent connection with their British Neighbours, and, in pursuance of the same example, make such a disposition of the Western territory as will entice into it most effectually emigrants from all parts of the Union. If these apprehensions be not imaginary they suggest many observations extremely interesting to Spain as well as to the United States.

I hear from Richmond with much concern that Mr Henry has positively declined his mission to Philad^a^. Besides the loss of his services on that theatre, there is danger I fear that this step has proceeded from a wish to leave his conduct unfettered on another theatre where the result of the Convention will receive its destiny from his omnipotence.

With every sentiment of esteem & affection I remain

Dear Sir, your Obed^t^ and very hble Servt

TO THOMAS JEFFERSON.[1]

NEW YORK, March 19th [18th], 1787.

DEAR SIR,—My last was of the 11th of February, and went by the packet. This will go to England in

[1] From Madison's Works. The correct date of the letter is doubtless March 18th, as Jefferson acknowledged on June 20th the receipt of two letters, dated respectively March 18th and 19th, and this letter evidently preceded the other letter to Jefferson dated March 19th. The letter should be taken in connection

the care of a French gentleman, who will consign it to the care of Mr. Adams.

The appointments for the Convention go on auspiciously. Since my last, Georgia, South Carolina, New York, Massachusetts, and New Hampshire, have come into the measure. The first and the last of these States have commissioned their delegates to Congress as their representatives in Convention. The deputation of Massachusetts consists of Messrs. Gorham, Dana, King, Gerry, and Strong. That of New York, Messrs. Hamilton, Yates, and Lansing. That of South Carolina, Messrs. J. Rutledge, Laurens, Pinckney, (General,) Butler, and Charles Pinckney, lately member of Congress. The States which have not yet appointed are Rhode Island, Connecticut, and Maryland. The last has taken measures which prove her intention to appoint, and the two former it is not doubted will follow the example of their neighbours. I just learn from the Governor of Virginia that Mr. Henry has resigned his place in the deputation from that State, and that General Nelson is put into it by the Executive, who were authorised to fill vacancies. The Governor, Mr. Wythe, and Mr. Blair, will attend, and some hopes are entertained of Col. Mason's attendance. General Washington has prudently authorised no expectations of his attendance, but has not either precluded himself absolutely from stepping into the field if the crisis should demand it.

with that of April 8th to Randolph and April 16th to Washington as developing Madison's plan of government. See also the letter on the subject of the Kentucky constitution, January 6, 1785, to George Muter.

What may be the result of this political experiment cannot be foreseen. The difficulties which present themselves are, on one side, almost sufficient to dismay the most sanguine, whilst on the other side the most timid are compelled to encounter them by the mortal diseases of the existing Constitution. These diseases need not be pointed out to you, who so well understand them. Suffice it to say, that they are at present marked by symptoms which are truly alarming, which have tainted the faith of the most orthodox republicans, and which challenge from the votaries of liberty every concession in favor of stable Government not infringing fundamental principles, as the only security against an opposite extreme of our present situation.

I think myself that it will be expedient, in the first place, to lay the foundation of the new system in such a ratification by the people themselves of the several States as will render it clearly paramount to their Legislative authorities. 2dly. Over and above the positive power of regulating trade and sundry other matters in which uniformity is proper, to arm the federal head with a negative *in all cases whatsoever* on the local Legislatures. Without this defensive power, experience and reflection have satisfied me that, however ample the federal powers may be made, or however clearly their boundaries may be delineated on paper, they will be easily and continually baffled by the Legislative sovereignties of the States. The effects of this provision would be not only to guard the national rights and interests against in-

vasion, but also to restrain the States from thwarting and molesting each other; and even from oppressing the minority within themselves by paper money and other unrighteous measures which favor the interest of the majority. In order to render the exercise of such a negative prerogative convenient, an emanation of it must be vested in some set of men within the several States, so far as to enable them to give a temporary sanction to laws of immediate necessity. 3dly. To change the principle of Representation in the federal system. Whilst the execution of the acts of Congress depends on the several Legislatures, the equality of votes does not destroy the inequality of importance and influence in the States. But in case of such an augmentation of the federal power as will render it efficient without the intervention of the Legislatures, a vote in the general Councils from Delaware would be of equal value with one from Massachusetts or Virginia. This change, therefore, is just. I think, also, it will be practicable. A majority of the States conceive that they will be gainers by it. It is recommended to the Eastern States by the actual superiority of their populousness, and to the Southern by their expected superiority; and if a majority of the larger States concur, the fewer and smaller States must finally bend to them. This point being gained, many of the objections now urged in the leading States against renunciations of power will vanish. 4^{thly}. To organize the federal powers in such a manner as not to blend together those which ought to be exercised by separate departments.

The limited powers now vested in Congress are frequently mismanaged from the want of such a distribution of them. What would be the case under an enlargement not only of the powers, but the number of the federal Representatives? These are some of the leading ideas which have occurred to me, but which may appear to others as improper as they appear to me necessary.

TO THOMAS JEFFERSON.[1]

NEW YORK, March 19, 1787.

DEAR SIR,—Congress have continued so thin as to be incompetent to the dispatch of the more important business before them. We have at present nine States, and it is not improbable that something may now be done. The report of Mr. Jay on the mutual violations of the treaty of peace will be among the first subjects of deliberation. He favors the British claim of interest, but refers the question to the court. The amount of the report, which is an able one, is, that the treaty should be put in force as a law, and the exposition of it left, like that of other laws, to the ordinary tribunals.

The Spanish project sleeps. A perusal of the attempt of seven States to make a new treaty, by repealing an essential condition of the old, satisfied me that Mr. Jay's caution would revolt at so irregular a sanction. A late accidental conversation with Guardoqui proved to me that the negotiation is

[1] From the Madison Papers (1840).

arrested. It may appear strange that a member of Congress should be indebted to a foreign Minister for such information, yet such is the footing on which the intemperance of party has put the matter, that it rests wholly with Mr. Jay how far he will communicate with Congress, as well as how far he will negotiate with Guardoqui. But although it appears that the intended sacrifice of the Mississippi will not be made, the consequences of the intention and the attempt are likely to be very serious. I have already made known to you the light in which the subject was taken up by Virginia. Mr. Henry's disgust exceeds all measure, and I am not singular in ascribing his refusal to attend the Convention to the policy of keeping himself free to combat or espouse the result of it according to the result of the Mississippi business, among other circumstances. North Carolina also has given pointed instructions to her Delegates; so has New Jersey. A proposition for the like purpose was a few days ago made in the Legislature of Pennsylvania, but went off without a decision on its merits. Her Delegates in Congress are equally divided on the subject. The tendency of this project to foment distrust among the Atlantic States, at a crisis when harmony and confidence ought to have been studiously cherished, has not been more verified than its predicted effect on the ultramontane settlements. I have credible information that the people living on the Western waters are already in great agitation, and are taking measures for uniting their consultations. The ambition of individuals will

quickly mix itself with the original motives of resentment and interest. Communication will gradually take place with their British neighbours. They will be led to set up for themselves, to seize on the vacant lands, to entice emigrants by bounties and an exemption from Federal burthens, and in all respects play the part of Vermont on a large theatre. It is hinted to me that British partizans are already feeling the pulse of some of the Western settlements. Should these apprehensions not be imaginary, Spain may have equal reason with the United States to rue the unnatural attempt to shut the Mississippi. Guardoqui has been admonished of the danger, and, I believe, is not insensible to it, though he affects to be otherwise, and talks as if the dependence of Britain on the commercial favors of his Court would induce her to play into the hands of Spain. The eye of France also cannot fail to watch over the western prospects. I learn from those who confer here with Otto and De la Forest, that they favor the opening of the Mississippi, disclaiming at the same time any authority to speak the sentiments of their Court. I find that the Virginia Delegates, during the Mississippi discussions last fall, entered into very confidential interviews with these gentlemen. In one of them the idea was communicated to Otto of opening the Mississippi for exports but not for imports, and of giving to France and Spain some exclusive privileges in the trade. He promised to transmit it to Vergennes, to obtain his sentiments on the whole matter, and to communicate them to the Delegates. Not long since

Grayson called on him, and revived the subject. He assured Grayson that he had received no answer from France, and signified his wish that you might pump the Count de Vergennes, observing *that he would deny to you his having received any information from America.* I discover, through several channels, that it would be very grateful to the French politicians here to see our negotiations with Spain shifted into your hands, and carried on under the mediating auspices of their Court.

Van Berkel has remonstrated against the late acts of Virginia, giving privileges to French wines and brandies in French bottoms, contending that the Dutch are entitled by their treaty to equal exemptions with the most favored nation, without being subject to a compensation for them. Mr. Jay has reported against this construction, but considers the act of Virginia as violating the treaty;—first, as it appears to be gratuitous, not compensatory, on the face of it; secondly, because the States have no right to form tacit compacts with foreign nations. No decision of Congress has yet taken place on the subject.

The expedition of General Lincoln against the insurgents has effectually succeeded in dispersing them. Whether the calm which he has restored will be durable or not, is uncertain. From the precautions taking by the Government of Massachusetts, it would seem as if their apprehensions were not extinguished. Besides disarming and *disfranchising*, for a limited time, those who have been in arms, as a condition of

their pardon, a military corps is to be raised to the amount of one thousand or fifteen hundred men, and to be stationed in the most suspected districts. It is said that, notwithstanding these specimens of the temper of the Government, a great proportion of the offenders choose rather to risk the consequences of their treason, than submit to the conditions annexed to the amnesty; that they not only appear openly on public occasions, but distinguish themselves by badges of their character; and that this insolence is in many instances countenanced by no less decisive marks of popular favor than elections to local offices of trust and authority.

A proposition is before the Legislature of this State, now sitting, for renouncing its pretensions to Vermont, and urging the admission of it into the Confederacy. The different parties are not agreed as to the form in which the renunciation should be made, but are likely to agree as to the substance. Should the offer be made, and should Vermont not reject it altogether, I think they will insist on two stipulations at least;—first, that their becoming parties to the Confederation shall not subject their boundaries, or the rights of their citizens, to be questioned under the ninth Article; secondly, that they shall not be subject to any part of the public debts already contracted.

The Geographer and his assistants have returned surveys on the Federal lands to the amount of about eight hundred thousand acres, which it is supposed would sell pretty readily for public securities, and

some of it, lying on the Ohio, even for specie. It will be difficult, however, to get proper steps taken by Congress, so many of the States having lands of their own at market. It is supposed that this consideration had some share in the zeal for shutting the Mississippi. New Jersey, and some others having no Western lands, which favored this measure, begin now to penetrate the secret.

A letter from the Governor of Virginia informs me, that the project of paper-money is beginning to recover from the blow given it at the last session of the Legislature. If Mr. Henry espouses it, of which there is little doubt, I think an emission will take place.

TO EDMUND RANDOLPH.[1]

NEW YORK, March 25, 1787.

DEAR SIR,—I have had the pleasure of your two favors of the first and seventh instant. The refusal of Mr. Henry to join in the task of revising the Confederation is ominous; and the more so, I fear, if he means to be governed by the event which you conjecture. There seems to be little hope, at present, of being able to quash the proceedings relative to the affair which is so obnoxious to him,[2] though on the other hand, there is reason to believe that they will never reach the object at which they aimed.

Congress have not changed the day for meeting at Philadelphia as you imagine. The act of Virginia,

[1] From the Madison Papers (1840). [2] The Jay project for a treaty with Spain.

I find, has done so in substituting second *day* for the second *Monday* in May, the time recommended from Annapolis.

I cannot suppose that Mr. Otto has equivocated in his explanation to the public touching the Floridas. Nothing of that subject has been mentioned here, as far as I know. Supposing the exchange in question to have really been intended, I do not see the inference to be unfavorable to France. Her views, as they occur to me, would most probably be to conciliate the Western people, in common with the Atlantic States, and to extend her commerce, by reversing the Spanish policy. I have always wished to see the Mississippi in the hands of France, or of any nation which would be more liberally disposed than the present holders of it.

Mr. Jay's report on the treaty of peace has at length been decided on. It resolves and declares, that the treaty, having been constitutionally formed, is the law of the land, and urges a repeal of all laws contravening it, as well to stop the complaints of their existing as legal impediments, as to avoid needless questions touching their validity. Mr. Jay is preparing a circular address to accompany the Resolutions, and the latter will not be forwarded till the former is ready.

TO JAMES MADISON. MAD. MSS.

N. York April 1, 1787

Hon^{D} Sir,—I have received your favor of the 17th Feby and have made enquiry as to the Andover

Works, not indeed thro' the channel you suggested, but through one still more direct & authentic. I find that the works are not pursued with such alacrity at present as to promise the supply you wish, that it is uncertain whether it would be delivered at Philad[a] at all, and that the price is at present unfixed. I shall have an opportunity of seeing in Trenton on my way to the Convention, the man who is connected with these works and will collect any further information he may be able to give.

Congress has remained very thin ever since my arrival, and have done but little business of importance. The general attention is now directed towards the approaching Convention. All the States have appointed deputies to it except Connecticut, Maryland, and Rho. Island. The first, it is not doubted will appoint, and the second has already resolved on the expediency of the measure. Rho. Island alone has refused her concurrence. A majority of more than twenty in the Legislature of that State has refused to follow the general example. Being conscious of the wickedness of the measures they are pursuing they are afraid of everything that may become a controul on them. Notwithstanding this prospect of a very full and respectable meeting, no very sanguine expectations can well be indulged. The probable diversity of opinions and prejudices, and of supposed or real interests among the States, renders the issue totally uncertain. The existing embarrassments and mortal diseases of the Confederacy form the only ground of hope, that a spirit of concession on all

sides may be produced by the general chaos, or at least partitions of the Union, which offers itself as the alternative.

N. Carolina and N Jersey have followed the example of Virginia in giving instructions in favor of the Missippi. Penn^a has not done so as was expected, but she has appointed a Delegation which thinks differently from her last on the subject.

I am anxious to hear from my brother A. on the subject of the Tobacco. It will at furthest I hope arrive within the current month in Philad^a With affect^e regards to my mother & the family

I remain y^r dutiful son

TO EDMUND RANDOLPH.[1]

NEW YORK, April 8, 1787.

DEAR SIR,—Your two favors of the twenty-second and twenty-seventh of March, have been received since my last. In a preceding one you ask, what tribunal is to take cognizance of Clark's offence? If our own laws will not reach it, I see no possibility of punishing it. But will it not come within the act of the last session concerning treasons and *other offences* committed without the commonwealth? I have had no opportunity yet of consulting Mr. Otto on the allegation of Oster touching the marriage of French subjects in America. What is the *conspicuous prosecution* which you suspect will shortly display a notable instance of perjury?

[1] From the Madison Papers (1840).

I am glad to find that you are turning your thoughts towards the business of May next. My despair of your finding the necessary leisure, as signified in one of your letters, with the probability that some leading propositions at least would be expected from Virginia, had engaged me in a closer attention to the subject than I should otherwise have given. I will just hint the ideas that have occurred, leaving explanations for our interview.

I think with you, that it will be well to retain as much as possible of the old Confederation, though I doubt whether it may not be best to work the valuable articles into the new system, instead of engrafting the latter on the former. I am also perfectly of your opinion, that, in framing a system, no material sacrifices ought to be made to local or temporary prejudices. An explanatory address must of necessity accompany the result of the Convention on the main object. I am not sure that it will be practicable to present the several parts of the reform in so detached a manner to the States, as that a partial adoption will be binding. Particular States may view different articles as conditions of each other, and would only ratify them as such. Others might ratify them as independent propositions. The consequence would be that the ratifications of both would go for nothing. I have not, however, examined this point thoroughly. In truth, my ideas of a reform strike so deeply at the old Confederation, and lead to such a systematic change, that they scarcely admit of the expedient.

I hold it for a fundamental point, that an individual

independence of the States is utterly irreconcilable with the idea of an aggregate sovereignty. I think, at the same time, that a consolidation of the States into one simple republic is not less unattainable than it would be inexpedient. Let it be tried, then, whether any middle ground can be taken, which will at once support a due supremacy of the national authority, and leave in force the local authorities so far as they can be subordinately useful.

The first step to be taken is, I think, a change in the principle of representation. According to the present form of the Union, an equality of suffrage, if not just towards the larger members of it, is at least safe to them, as the liberty they exercise of rejecting or executing the acts of Congress, is uncontrollable by the nominal sovereignty of Congress. Under a system which would operate without the intervention of the States, the case would be materially altered. A vote from Delaware would have the same effect as one from Massachusetts or Virginia.

Let the national Government be armed with a positive and complete authority in all cases where uniform measures are necessary, as in trade, &c., &c. Let it also retain the powers which it now possesses.

Let it have a negative, in all cases whatsoever, on the Legislative acts of the States, as the King of Great Britain heretofore had. This I conceive to be essential and the least possible abridgement of the State sovereignties. Without such a defensive power,

every positive power that can be given on paper will be unavailing. It will also give internal stability to the States. There has been no moment since the peace at which the Federal assent would have been given to paper-money, &c., &c.

Let this national supremacy be extended also to the Judiciary department. If the Judges in the last resort depend on the States, and are bound by their oaths to them and not to the Union, the intention of the law and the interests of the nation may be defeated by the obsequiousness of the tribunals to the policy or prejudices of the States. It seems at least essential that an appeal should lie to some national tribunals in all cases which concern foreigners, or inhabitants of other States. The admiralty jurisdiction may be fully submitted to the National Government.

A Government formed of such extensive powers ought to be well organized. The Legislative department may be divided into two branches. One of them to be chosen every —— years by the Legislatures or the people at large; the other to consist of a more select number, holding their appointments for a longer term, and going out in rotation. Perhaps the negative on the State laws may be most conveniently lodged in this branch. A Council of Revision may be superadded, including the great ministerial officers.

A national Executive will also be necessary. I have scarcely ventured to form my own opinion yet, either of the manner in which it ought to be

constituted, or of the authorities with which it ought to be clothed.

An article ought to be inserted expressly guaranteeing the tranquillity of the States against internal as well as external dangers.

To give the new system its proper energy, it will be desirable to have it ratified by the authority of the people, and not merely by that of the Legislatures.

I am afraid you will think this project, if not extravagant, absolutely unattainable and unworthy of being attempted. Conceiving it myself to go no further than is essential, the objections drawn from this source are to be laid aside. I flatter myself, however, that they may be less formidable on trial than in contemplation. The change in the principle of representation will be relished by a majority of the States, and those too of most influence. The northern States will be reconciled to it by the *actual* superiority of their populousness; the Southern by their *expected* superiority on this point. This principle established, the repugnance of the large States to part with power will in a great degree subside, and the smaller States must ultimately yield to the predominant will. It is also already seen by many, and must by degrees be seen by all, that, unless the Union be organized efficiently on republican principles, innovations of a much more objectionable form may be obtruded, or, in the most favorable event, the partition of the Empire, into rival and hostile confederacies will ensue.

TO EDMUND RANDOLPH.[1]

NEW YORK, April 15, 1787.

DEAR SIR,—Your favor of the fourth of April has been received since my last. The probability of General Washington's coming to Philadelphia is, in one point of view, flattering. Would it not, however, be well for him to postpone his actual attendance, until some judgment can be formed of the result of the meeting? It ought not to be wished by any of his friends that he should participate in any abortive undertaking. It may occur, perhaps, that the delay would deprive the Convention of his presiding auspices, and subject him, on his arrival, to a less conspicuous point of view than he ought on all occasions to stand in. Against this difficulty must be weighed the consideration above mentioned, to which may be added the opportunity which Pennsylvania, by the appointment of Doctor Franklin, has afforded of putting sufficient dignity into the Chair.

The effect of the interposition of Congress in favor of the treaty at this crisis, was foreseen by us.[2]

[1] From the Madison Papers (1840).

[2] March 21, 1787, Congress unanimously resolved that the Legislatures of the several States could not, of right, pass acts for interpreting or construing a treaty, nor in any manner retard its operation, and that all State acts repugnant to the treaty of peace with Great Britain ought to be repealed, and the State Legislatures were requested to repeal them. Journals of Congress (Ed. 1801), XII., 23, 24. On April 13th, the Secretary for Foreign Affairs (Jay) reported a letter to the States, which was agreed to, to accompany the resolutions of March 21st. It regretted that in some of the States too little attention had been paid to the public faith pledged by the treaty, and urged the binding nature of a treaty upon each member of the Confederacy. *Id.* 22, *et seq.*

I would myself have preferred a little procrastination on the subject. But the manifest and undeniable propriety of the thing itself, with the chance that the Legislature here, which will adjourn in a little time until next winter, and which is one of the principal transgressors, may set an immediate example of reformation, overruled the argument for delay. The difficulties which, as you suggest, may be left behind by a mere repeal of all existing impediments, will be probably found of a very serious nature to British creditors. If no other advantage should be taken of them by the State, than the making the assent of the creditors to the plan of instalments, a condition of such further provisions as may not come within the treaty, I do not know that the existence of these difficulties ought to be matter of regret. In every view Congress seem to have taken the most proper course for maintaining the national character; and if any deviations in particular States should be required by peculiar circumstances, it will be better that they should be chargeable on such States than on the United States.

The Maryland Assembly met on the second instant, being convened by proclamation. The expected delay, therefore, in her appointments for the Convention, cannot be admitted among the considerations which are to decide the time of your setting out. I am sorry that punctuality on your part will oblige you to travel without the company of Mrs. Randolph. But the sacrifice seems to be the more

necessary, as Virginia ought not only to be on the ground in due time, but to be prepared with some materials for the work of the Convention. In this view, I could wish that you might be able to reach Philadelphia some days before the second Monday in May.

This city has been thrown into no small agitation by a motion, made a few days ago, for a short adjournment of Congress, and the appointment of Philadelphia as the place of its reassembling. No final question was taken, but some preliminary questions shewed that six States were in favor of it; Rhode Island, the seventh State, was at first in the affirmative, but one of its Delegates was overcome by the exertions made to convert him. As neither Maryland nor South Carolina was present, the vote is strong evidence of the precarious tenure by which New York enjoys her metropolitan advantages. The motives which led to this attempt were probably with some of a local nature. With others they certainly were of a general nature.

Mr. Jay was a few days ago instructed to communicate to Congress the State of the Spanish negotiation. An unwilling but silent assent was given by Massachusetts and Connecticut. The Report shews that Jay viewed the act of seven States as valid, and has even adjusted with Guardoqui an article for suspending our use of the Mississippi during the term of the treaty. A subsequent report, on a reference of Western information from Virginia and North Carolina denotes little confidence in the

event of the negotiation, and considerable perplexity as to the steps proper to be taken by Congress. Wednesday is fixed for the consideration of these reports. We mean to propose that Jefferson be sent, under a special commission, to plead the cause of the Mississippi at Madrid.

TO GEORGE WASHINGTON. WASH. MSS.

NEW YORK April 16 1787.

DEAR SIR,—I have been honored with your letter of the 31 March, and find with much pleasure that your views of the reform which ought to be pursued by the Convention, give a sanction to those which I have entertained. Temporising applications will dishonor the Councils which propose them, and may foment the internal malignity of the disease, at the same time that they produce an ostensible palliation of it. Radical attempts although unsuccessful will at least justify the authors of them.

Having been lately led to revolve the subject which is to undergo the discussion of the Convention, and formed *some* outlines of a new system, I take the liberty of submitting them without apology to your eye.

Conceiving that an individual independence of the States is utterly irreconcileable with their aggregate sovereignty, and that a consolidation of the whole into one simple republic would be as inexpedient as it is unattainable, I have sought for middle ground, which may at once support a due supremacy of the

national authority, and not exclude the local authorities wherever they can be subordinately useful.

I would propose as the ground-work that a change be made in the principle of representation. According to the present form of the Union in which the intervention of the States is in all great cases necessary to effectuate the measures of Congress, an equality of suffrage, does not destroy the inequality of importance in the several members. No one will deny that Virginia and Mass^{ts} have more weight and influence both within & without Congress than Delaware or Rho. Island. Under a system which would operate in many essential points without the intervention of the State Legislatures, the case would be materially altered. A vote in the national Councils from Delaware, would then have the same effect and value as one from the largest State in the Union. I am ready to believe that such a change would not be attended with much difficulty. A majority of the States, and those of greatest influence, will regard it as favorable to them. To the Northern States it will be recommended by their present populousness; to the Southern by their expected advantage in this respect. The lesser States must in every event yield to the predominant will. But the consideration which particularly urges a change in the representation is that it will obviate the principal objections of the larger States to the necessary concessions of power.

I would propose next that in addition to the present federal powers, the national Government should be

armed with positive and compleat authority in all cases which require uniformity; such as the regulation of trade, including the right of taxing both exports & imports, the fixing the terms and forms of naturalization, &c &c.

Over and above this positive power, a negative *in all cases whatsoever* on the legislative acts of the States, as heretofore exercised by the Kingly prerogative, appears to me to be absolutely necessary, and to be the least possible encroachment on the State jurisdictions. Without this defensive power, every positive power that can be given on paper will be evaded & defeated. The States will continue to invade the National jurisdiction, to violate treaties and the law of nations & to harass each other with rival and spiteful measures dictated by mistaken views of interest. Another happy effect of this prerogative would be its controul on the internal vicissitudes of State policy, and the aggressions of interested majorities on the rights of minorities and of individuals. The great desideratum which has not yet been found for Republican Governments seems to be some disinterested & dispassionate umpire in disputes between different passions & interests in the State. The majority who alone have the right of decision, have frequently an interest, real or supposed in abusing it. In Monarchies the sovereign is more neutral to the interests and views of different parties; but, unfortunely he too often forms interests of his own repugnant to those of the whole. Might not the national prerogative here suggested be found sufficiently dis-

interested for the decision of local questions of policy, whilst it would itself be sufficiently restrained from the pursuit of interests adverse to those of the whole Society. There has not been any moment since the peace at which the representatives of the Union would have given an assent to paper money or any other measure of a kindred nature.

The national supremacy ought also to be extended as I conceive to the Judiciary departments. If those who are to expound & apply the laws, are connected by their interests & their oaths with the particular States wholly, and not with the Union, the participation of the Union in the making of the laws may be possibly rendered unavailing. It seems at least necessary that the oaths of the Judges should include a fidelity to the general as well as local constitution, and that an appeal should lie to some National tribunals in all cases to which foreigners or inhabitants of other States may be parties. The admiralty jurisdiction seems to fall entirely within the purview of the national Government.

The National supremacy in the Executive departments is liable to some difficulty, unless the officers administering them could be made appointable by the supreme Government. The Militia ought certainly to be placed in some form or other under the authority which is entrusted with the general protection and defence.

A Government composed of such extensive powers should be well organized and balanced. The legislative department might be divided into two branches;

one of them chosen every years by the people at large, or by the Legislatures; the other to consist of fewer members, to hold their places for a longer term, and to go out in such a rotation as always to leave in office a large majority of old members. Perhaps the negative on the laws might be most conveniently exercised by this branch. As a further check, a council of revision including the great ministerial officers might be superadded.

A National Executive must also be provided. I have scarcely ventured as yet to form my own opinion either of the manner in which it ought to be constituted or of the authorities with which it ought to be cloathed.

An article should be inserted expressly guarantying the tranquillity of the States against internal as well as external dangers.

In like manner the right of coercion should be expressly declared. With the resources of Commerce in hand, the National administration might always find means of exerting it either by sea or land; But the difficulty & awkwardness of operating by force on the collective will of a State, render it particularly desirable that the necessity of it might be precluded. Perhaps the negative on the laws might create such a mutuality of dependence between the General and particular authorities, as to answer this purpose or perhaps some defined objects of taxation might be submitted along with commerce, to the general authority.

To give a new System its proper validity and en-

ergy, a ratification must be obtained from the people, and not merely from the ordinary authority of the Legislatures. This will be the more essential as inroads on the *existing Constitutions* of the States will be unavoidable.

The inclosed address to the States on the subject of the Treaty of peace has been agreed to by Congress, & forwarded to the several Executives. We foresee the irritation which it will excite in many of our Countrymen; but could not withhold our approbation of the measure. Both the resolutions and the address, passed without a dissenting voice.

Congress continue to be thin, and of course do little business of importance. The settlement of the public accounts,—the disposition of the public lands, and arrangements with Spain, are subjects which claim their particular attention. As a step towards the first, the treasury board are charged with the task of reporting a plan by which the final decision on the claims of the States will be handed over from Congress to a select sett of men bound by the oaths, and cloathed with the powers of Chancellors. As to the Second article, Congress have it themselves under consideration. Between 6 & 700 thousand acres have been surveyed and are ready for sale. The mode of sale however will probably be a source of different opinions; as will the mode of disposing of the unsurveyed residue. The Eastern gentlemen remain attached to the scheme of townships. Many others are equally strenuous for indiscriminate locations. The States which have lands of their own for

sale are *suspected* of not being hearty in bringing the federal lands to market. The business with Spain is becoming extremely delicate, and the information from the Western settlements truly alarming.

A motion was made some days ago for an adjournment of Congress for a short period, and an appointment of Philad[a] for their reassembling. The eccentricity of this place as well with regard to E. and West as to N. & South has I find been for a considerable time a thorn in the minds of many of the Southern members. Suspicion too has charged some important votes on the weight thrown by the present position of Congress into the Eastern Scale, and predicts that the Eastern members will never concur in any substantial provision or movement for a proper permanent seat for the National Government whilst they remain so much gratified in its temporary residence. These seem to have been the operative motives with those on one side who were not locally interested in the removal. On the other side the motives are obvious. Those of real weight were drawn from the apparent caprice with which Congress might be reproached, and particularly from the peculiarity of the existing moment. I own that I think so much regard due to these considerations, that notwithstanding the powerful ones on the other side, I should have assented with great repugnance to the motion, and would even have voted against it if any probability had existed that by waiting for a proper time, a proper measure might not be lost for a very long time. The plan which I sh[d] have judged

most eligible would have been to fix on the removal whenever a vote could be obtained but so as that it should not take effect until the commencement of the ensuing federal year. And if an immediate removal had been resolved on, I had intended to propose such a change in the plan. No final question was taken in the case. Some preliminary questions shewed that six States were in favor of the motion. Rho. Island the 7th was at first on the same side, and Mr. Varnum, one of the delegates continues so. His colleague was overcome by the solicitations of his Eastern brethren. As neither Maryland nor South Carolina were on the floor, it seems pretty evident that N. York has a very precarious tenure of the advantages derived from the abode of Congress.

We understand that the discontents in Massts, which lately produced an appeal to the sword, are now producing a trial of strength in the field of electioneering. The Governor will be displaced. The Senate is said to be already of a popular complexion, and it is expected that the other branch will be still more so. Paper money it is surmised will be the engine to be played off agts creditors both public and private. As the event of the elections however is not yet decided, this information must be too much blended with conjecture to be regarded as a matter of certainty.

I do not learn that the proposed Act relating to Vermont has yet gone through all the stages of legislation here; nor can I say whether it will finally pass or not. In truth, it having not been a subject of

conversation for some time, I am unable to say what has been done or is likely to be done with it. With the sincerest affection & the highest esteem I have the honor to be, Dear Sir your devoted Servt

TO JAMES MONROE. MAD. MSS.

NEW YORK, April 19, 1787

DEAR SIR,—No definite steps are yet taken for the transportation of your furniture. I fear we shall be obliged to make use of a conveyance to Norfolk as soon as one shall offer. I have examined the workmanship of the man in Chappel street. The face of it is certainly superior to that of your workman. Whether it may prove much so for substantial purposes, I do not undertake to say. Should Mrs Monroe not be pleased with the articles, I wd recommend that you dispose of them, which may be done probably without loss, and send us a commission to replace them. I think we could please you both; and on terms not dearer than that of your purchase. We learn nothing yet of a remittance from S. Carolina.

The business of the Mississippi will I think come to a point in a few days. You shall know the result in due time.

A motion was lately made to remove shortly to Philada six States would have been for it. Rh. Island was so at first and would have been a seventh. One of the delegation was overpowered by exertions of his Eastern brethren. I need not rehearse to you

the considerations which operated on both sides. Your conjectures will not mistake them. My own opinion is that there are strong objections ag^st^ the movement, objections which nothing would supersede but the difficulty of bringing the sense of the Union to an efficient vote in Congress, and the danger of losing altogether a proper measure by waiting for a proper time. A middle way would have been my choice; that is, to fix Philad^a^ for the meeting of the ensuing Cong^s^, & to remain here in the mean time. This would have given time for all preliminary arrangements, would have steered clear of the Convention, and, by selecting a natural period for the event, and transferring the operation of it to our successors in office, all insinuations of suddenness, and of personal views, would have been repelled.

I hear with great pleasure that you are to aid the deliberations of the next Assembly, and with much concern that paper money will probably be among the bad measures which you will have to battle. Wishing you success in this and all your other labours for the public and for yourself, I remain, with best

respects to Mrs Monroe, yours affe^ly^.

TO EDMUND PENDLETON. MAD. MSS.

NEW YORK April 22 1787

MY DEAR SIR,—The period since my last has afforded such scanty materials for a letter that I have postponed it, till I have now to thank you for yours

of the 7th inst: which came to hand two days ago. I always feel pleasure in hearing from you, but particularly when my concern for your doubtful health is relieved by such an evidence in its favor. At the same time I must repeat my wishes to forego this pleasure whenever it may interfere with the attention which you owe to your ease, your business, or your other friends.

I do not learn that any symptoms yet appear of a return of the insurgent spirit in Massts. On the contrary it is said that the malcontents are trying their strength in a more regular form. This is the crisis of their elections, and if they can muster sufficient numbers, their wicked measures are to be sheltered under the forms of the Constitution. How far their influence may predominate in the current appointments is uncertain, but it is pretty certain that a great change in the rulers of that State is taking place, and that a paper emission, if nothing worse, is strongly apprehended. Governor Bowdoin is already displaced in favor of Mr Hancock, whose acknowledged merits are not a little tainted by a dishonorable obsequiousness to popular follies. A great change has also taken place in the Senate, and a still greater is prognosticated in the other branch of the Legislature.

We are flattered with the prospect of a pretty full and very respectable meeting in next month. All the States have made appointments except Connecticut Maryland, & Rh. Island. The last has refused. Maryland will certainly concur. The temper of

Connecticut is equivocal. The turn of her elections which are now going on, is said to be rather unpropitious. The absence of one or two States however will not materially affect the deliberations of the Convention. Disagreement in opinion among those present is much more likely to embarrass us. The nearer the crisis approaches, the more I tremble for the issue. The necessity of gaining the concurrence of the Convention in some system that will answer the purpose, the subsequent approbation of Congress, and the final sanction of the States, presents a series of chances, which would inspire despair in any case where the alternative was less formidable. The difficulty too is not a little increased by the necessity which will be produced by encroachments on the State Constitutions, of obtaining not merely the assent of the Legislatures, but the ratification of the people themselves. Indeed if such encroachments could be avoided, a higher sanction than the Legislative authority would be necessary to render the laws of the Confederacy paramount to the acts of its members.

I enclose a late Act of Congress, which will shew you the light in which they view and inculcate a compliance with the Treaty of peace. We were not unaware of the bitterness of the pill to many of our countrymen, but national considerations overruled that objection. An investigation of the subject had proved that the violations on our part were not only most numerous and important, but were of earliest date. And the assurances on the other part are

explicit that a reparation of our wrongful measures shall be followed by an immediate and faithful execution of the Treaty by Great Britain.

Congress are at present deliberating on the most proper plan for disposing of ye Western lands, and providing a criminal and civil administration for the Western settlements beyond the Ohio. The latter subject involves great difficulties. On the former also opinions are various. Between 6 & 7,00,000 Acres have been surveyed in Townships & are to be sold as soon as they shall be duly advertised. The sale was at first to have been distributed throughout the States. This plan is now exchanged for the opposite extreme. The sale is to be made where Cong^s^ sits. Unquestionably reference ought to have been had in fixing on the place, either to the Center of the Union or to the proximity of the premises. In providing for the unsurveyed lands, the difficulty arises from the Eastern attachm^t^ to townships & the Southern to indiscriminate locations. A Copper coinage was agreed on yesterday to the amount of upwards of two hundred thousand dollars, 15 per C^t^ is to be drawn into the federal Treasury from this operation.

Our affair with Spain is on a very delicate footing. It is not easy to say what precise steps would be most proper to be taken on our side, and extremely difficult to say what will be actually taken. Many circumstances threaten an Indian war, but the certainty of it is not established. A British officer was lately here from Canada, as has been propagated, but

not on a mission to Congress. His business was unknown, if he had any that was important.

I am extremely concerned, though not much surprised at the danger of a paper emission in Virginia. If Mr. H. sh^d^ erect the standard he will certainly be joined by sufficient force to accomplish it. Remorse and shame are but too feeble restraints on interested individuals ag^st^ unjust measures, and are rarely felt at all by interested multitudes.

Wishing you all happiness I remain Dear Sir

Your affect^e^ humble servant

TO THOMAS JEFFERSON.[1]

NEW YORK, April 23, 1787.

DEAR SIR,—Congress have agreed to Mr. Jay's report on the treaty of peace, and to an address which accompanies it. Copies of both will no doubt be sent you from his Department. The Legislature of this State, which was sitting at the time, and on whose account the acts of Congress were hurried through, has adjourned till January next, without deciding on them. This is an ominous example to the other States, and must weaken much the claim on Great Britain of an execution of the treaty on her part, as promised in case of proper steps being taken on ours. Virginia, we foresee, will be among the foremost in seizing pretexts for evading the injunctions of Congress. South Carolina is not less infected with the same spirit. The present deliberations of

[1] From the Madison Papers (1840).

Congress turn on, first, the sale of the Western lands; secondly, the government of the Western settlements within the Federal domain; thirdly, the final settlement of the accounts between the Union and its members; fourthly, the treaty with Spain.

1. Between six and seven hundred thousand acres have been surveyed in townships, under the land ordinance, and are to be sold forthwith. The place where Congress sit is fixed for the sale. Its eccentricity, and remoteness from the premises, will, I apprehend, give disgust. On the most eligible plan of selling the unsurveyed residue, Congress are much divided; the Eastern States being strongly attached to that of townships, notwithstanding the expense incident to it; the Southern being equally biassed in favor of indiscriminate locations, notwithstanding the many objections against that mode. The dispute will probably terminate in some kind of compromise, if one can be hit upon.

2. The government of the settlements on the Illinois and Wabash is a subject very perplexing in itself, and rendered more so by our ignorance of many circumstances on which a right judgment depends. The inhabitants at those places claim protection against the savages, and some provision for both criminal and civil justice. It appears also that land-jobbers are among them, who are likely to multiply litigations among individuals, and, by collusive purchases of spurious titles, to defraud the United States.

3. The settlement of the public accounts has long

been pursued in varied shapes, and with little prospect of success. The idea which has long been urged by some of us, seems now to be seriously embraced, of establishing a plenipotentiary tribunal for the final adjustment of the mutual claims, on the great and simple principle of equity. An ordinance for this purpose has been reported by the Treasury Board, and has made some progress through Congress. It is likely to be much retarded by the thinness of Congress, as indeed is almost every other matter of importance.

4. The Spanish negotiation is in a very ticklish situation. You have been already apprized of the vote of seven States last fall for ceding the Mississippi for a term of years. From sundry circumstances it was inferred that Jay was proceeding under this usurped authority. A late instruction to him to lay the state of the negotiation before Congress has discovered that he has adjusted with Guardoqui an article for suspending the use of the Mississippi by the citizens of the United States. The report, however, leaves it somewhat doubtful how far the United States are committed by this step, and a subsequent report of the Secretary on the seizure of Spanish property in the Western country, and on information of discontents touching the occlusion of the Mississippi, shews that the probable consequences of the measure perplex him extremely. It was nevertheless conceived by the instructed delegations to be their duty to press a revocation of the step taken, in some form which

would least offend Spain, and least irritate the patrons of the vote of seven States. Accordingly a motion was made to the following effect — that the present state of the negotiation with Spain, and of the affairs of the United States, rendered it expedient that you should proceed, under a special commission, to Madrid, for the purpose of making such representations as might at once impress on that Court our friendly disposition and induce it to relax on the contested points; and that the proper communications and explanations should be made to Guardoqui relative to this change in the mode of conducting the negotiation. This motion was referred to Mr. Jay, whose report disapproves of it. In this state the matter lies. Eight States only being present, no effective vote is to be expected. It may, notwithstanding, be incumbent on us to try some question which will at least mark the paucity of States who abet the obnoxious project. Massachusetts and New York alone, of the present States, are under that description; and Connecticut and New Hampshire alone of the absent. Maryland and South Carolina have hitherto been on the right side. Their future conduct is somewhat problematical. The opinion of New Hampshire is only conjectured. The conversion of Rhode Island countenances a hope that she too may, in this instance, desert the New England standard.

The prospect of a full and respectable Convention grows stronger every day. Rhode Island alone has refused to send Deputies. Maryland has probably appointed by this time. Of Connecticut alone doubts are entertained. The anti-federal party in that State

is numerous and persevering. It is said that the elections which are now going on are rather discouraging to the advocates of the Convention. Pennsylvania has added Dr. Franklin to her deputation. There is some ground to calculate on the attendance of General Washington. Our Governor, Mr. Wythe, Mr. Blair, and Col. Mason will pretty certainly attend. The last, I am informed, is renouncing his errors on the subject of the Confederation, and means to take an active part in the amendment of it. Mr. Henry pretty soon resigned the undertaking. General Nelson was put into his place, who has also declined. He was succeeded by Mr. R. H. Lee, who followed his example. Doctor M'Clurg has been since appointed, and as he was on the spot must have been previously consulted.

MAD. MSS.

April, 1787.

Vices of the Political system of the U. States.

Observations by J. M. (A copy taken by permission by Dan[l] Carroll & sent to Ch[s] Carroll of Carrollton.)

1. Failure of the States to comply with the Constitutional requisitions.

1. This evil has been so fully experienced both during the war and since the peace, results so naturally from the number and independent authority of the States and has been so uniformly exemplified in every similar Confederacy, that it may be considered as not less radically and permanently inherent in than it is fatal to the object of the present system.

2. Encroachments by the States on the federal authority.

2. Examples of this are numerous and repetitions may be foreseen in almost every case where any favorite object of a State shall present a temptation. Among these examples are the wars and treaties of Georgia with the Indians. The unlicensed compacts between

Virginia and Maryland, and between Pen[a] & N. Jersey—the troops raised and to be kept up by Mass[ts].

3. Violations of the law of nations and of treaties.

3. From the number of Legislatures, the sphere of life from which most of their members are taken, and the circumstances under which their legislative business is carried on, irregularities of this kind must frequently happen. Accordingly not a year has passed without instances of them in some one or other of the States. The Treaty of Peace—the treaty with France—the treaty with Holland have each been violated. [See the complaints to Congress on these subjects.] The causes of these irregularities must necessarily produce frequent violations of the law of nations in other respects.

As yet foreign powers have not been rigorous in animadverting on us. This moderation, however cannot be mistaken for a permanent partiality to our faults, or a permanent security ag[st] those disputes with other nations, which being among the greatest of public calamities, it ought to be least in the power of any part of the community to bring on the whole.

4. Trespasses of the States on the rights of each other.

4. These are alarming symptoms, and may be daily apprehended as we are admonished by daily experience. See the law of Virginia restricting foreign vessels to certain ports—of Maryland in favor of vessels belonging to her *own citizens*—of N. York in favor of the same—

Paper money, instalments of debts, occlusion of Courts, making property a legal tender, may likewise be deemed aggressions on the rights of other States. As the Citizens of every State aggregately taken stand more or less in the relation of Creditors or debtors, to the Citizens of every other State, Acts of the debtor State in favor of debtors, affect the Creditor State, in the same manner as they do its own citizens who are relatively creditors towards other citizens. This remark may be extended to foreign nations. If the exclusive regulation of the value and alloy of coin was properly delegated to the federal authority, the policy of it equally requires a controul on the States in the cases above mentioned. It must have been meant 1. to preserve uniformity in the circulating medium throughout the nation. 2. to prevent those frauds on the citizens of other States, and the subjects of foreign powers, which might disturb the tranquillity at home, or involve the Union in foreign contests.

The practice of many States in restricting the commercial intercourse with other States, and putting their productions and manufactures on the same footing with those of foreign nations, though not contrary to the federal articles, is certainly adverse to the spirit of the Union, and tends to beget retaliating regulations, not less expensive and vexatious in themselves than they are destructive of the general harmony.

5. Want of concert in matters where common interest requires it.

5. This defect is strongly illustrated in the state of our commercial affairs. How much has the national dignity, interest, and revenue, suffered from this cause? Instances of inferior moment are the want of uniformity in the laws concerning naturalization & literary property; of provision for national seminaries, for grants of incorporation for national purposes, for canals and other works of general utility, wch may at present be defeated by the perverseness of particular States whose concurrence is necessary.

6. Want of Guaranty to the States of their Constitutions & laws against internal violence.

6. The confederation is silent on this point and therefore by the second article the hands of the federal authority are tied. According to Republican Theory, Right and power being both vested in the majority, are held to be synonimous. According to fact and experience a minority may in an appeal to force, be an overmatch for the majority. 1. if the minority happen to include all such as possess the skill and habits of military life, & such as possess the great pecuniary resources, one-third only may conquer the remaining two-thirds. 2. one-third of those who participate in the choice of the rulers, may be rendered a majority by the accession of those whose poverty excludes them from a right of suffrage, and who for obvious reasons will be more likely to join the standard of sedition than that of the established Government. 3. where slavery exists the republican Theory becomes still more fallacious.

7. Want of sanction to the laws, and of coercion in the Government of the Confederacy.

7. A sanction is essential to the idea of law, as coercion is to that of Government. The federal system being destitute of both, wants the great vital principles of a Political Constitution. Under the form of such a constitution, it is in fact nothing more than a treaty of amity of commerce and of alliance, between independent and Sovereign States. From what

cause could so fatal an omission have happened in the articles of Confederation? from a mistaken confidence that the justice, the good faith, the honor, the sound policy, of the several legislative assemblies would render superfluous any appeal to the ordinary motives by which the laws secure the obedience of individuals: a confidence which does honor to the enthusiastic virtue of the compilers, as much as the inexperience of the crisis apologizes for their errors. The time which has since elapsed has had the double effect, of increasing the light and tempering the warmth, with which the arduous work may be revised. It is no longer doubted that a unanimous and punctual obedience of 13 independent bodies, to the acts of the federal Government ought not to be calculated on. Even during the war, when external danger supplied in some degree the defect of legal & coercive sanctions, how imperfectly did the States fulfil their obligations to the Union? In time of peace, we see already what is to be expected. How indeed could it be otherwise? In the first place, Every general act of the Union must necessarily bear unequally hard on some particular member or members of it, secondly the partiality of the members to their own interests and rights, a partiality which will be fostered by the courtiers of popularity, will naturally exaggerate the inequality where it exists, and even suspect it where it has no existence, thirdly a distrust of the voluntary compliance of each other may prevent the compliance of any, although it should be the latent disposition of all. Here are causes & pretexts which will never fail to render federal measures abortive. If the laws of the States were merely recommendatory to their citizens, or if they were to be rejudged by County authorities, what security, what probability would exist, that they would be carried into execution? Is the security or probability greater in favor of the acts of Cong^{s} which depending for their execution on the will of the State legislatures, wch are tho' nominally authoritative, in fact recommendatory only?

8. Want of ratification by the people of the articles of Confederation.

8. In some of the States the Confederation is recognized by, and forms a part of the Constitution. In others however it has received no other sanction than that of the legislative authority. From this defect two evils result: 1. Whenever a law of a State

happens to be repugnant to an act of Congress, particularly when the latter [former] is of posterior date to the former, [latter] it will be at least questionable whether the latter [former] must not prevail ; and as the question must be decided by the Tribunals of the State, they will be most likely to lean on the side of the State.

2. As far as the union of the States is to be regarded as a league of sovereign powers, and not as a political Constitution by virtue of which they are become one sovereign power, so far it seems to follow from the doctrine of compacts, that a breach of any of the articles of the Confederation by any of the parties to it, absolves the other parties from their respective Obligations, and gives them a right if they chuse to exert it, of dissolving the Union altogether.

9. Multiplicity of laws in the several States.

9. In developing the evils which viciate the political system of the U S., it is proper to include those which are found within the States individually, as well as those which directly affect the States collectively, since the former class have an indirect influence on the general malady and must not be overlooked in forming a compleat remedy. Among the evils then of our situation may well be ranked the multiplicity of laws from which no State is exempt. As far as laws are necessary to mark with precision the duties of those who are to obey them, and to take from those who are to administer them a discretion which might be abused, their number is the price of liberty. As far as laws exceed this limit, they are a nuisance ; a nuisance of the most pestilent kind. Try the Codes of the several States by this test, and what a luxuriancy of legislation do they present. The short period of independency has filled as many pages as the century which preceded it. Every year, almost every session, adds a new volume. This may be the effect in part, but it can only be in part, of the situation in which the revolution has placed us. A review of the several Codes will shew that every necessary and useful part of the least voluminous of them might be compressed into one tenth of the compass, and at the same time be rendered ten fold as perspicuous.

10. mutability of the laws of the States.

10. This evil is intimately connected with the former yet deserves a distinct notice, as it emphatically denotes a vicious legislation. We daily see laws repealed or superseded, before any trial can have been made

of their merits, and even before a knowledge of them can have reached the remoter districts within which they were to operate. In the regulations of trade this instability becomes a snare not only to our citizens, but to foreigners also.

11. Injustice of the laws of the States.

11. If the multiplicity and mutability of laws prove a want of wisdom, their injustice betrays a defect still more alarming: more alarming not merely because it is a greater evil in itself; but because it brings more into question the fundamental principle of republican Government, that the majority who rule in such governments are the safest Guardians both of public Good and private rights. To what causes is this evil to be ascribed?

These causes lie 1. in the Representative bodies. 2. in the people themselves.

1. Representative appointments are sought from 3 motives. 1. ambition. 2. personal interest. 3. public good. Unhappily the two first are proved by experience to be most prevalent. Hence the candidates who feel them, particularly, the second, are most industrious, and most successful in pursuing their object: and forming often a majority in the legislative Councils, with interested views, contrary to the interest and views of their constituents, join in a perfidious sacrifice of the latter to the former. A succeeding election it might be supposed, would displace the offenders, and repair the mischief. But how easily are base and selfish measures, masked by pretexts of public good and apparent expediency? How frequently will a repetition of the same arts and industry which succeeded in the first instance, again prevail on the unwary to misplace their confidence?

How frequently too will the honest but unenlightened representative be the dupe of a favorite leader, veiling his selfish views under the professions of public good, and varnishing his sophistical arguments with the glowing colours of popular eloquence?

2. A still more fatal if not more frequent cause, lies among the people themselves. All civilized societies are divided into different interests and factions, as they happen to be creditors or debtors—rich or poor—husbandmen, merchants or manufacturers—members of different religious sects—followers of different political leaders—inhabitants of different districts—owners of different

kinds of property &c &c. In republican Government the majority however composed, ultimately give the law. Whenever therefore an apparent interest or common passion unites a majority what is to restrain them from unjust violations of the rights and interests of the minority, or of individuals? Three motives only 1. a prudent regard to their own good as involved in the general and permanent good of the community. This consideration although of decisive weight in itself, is found by experience to be too often unheeded. It is too often forgotten, by nations as well as by individuals, that honesty is the best policy. 2dly. respect for character. However strong this motive may be in individuals, it is considered as very insufficient to restrain them from injustice. In a multitude its efficacy is diminished in proportion to the number which is to share the praise or the blame. Besides, as it has reference to public opinion, which within a particular Society, is the opinion of the majority, the standard is fixed by those whose conduct is to be measured by it. The public opinion without the Society will be little respected by the people at large of any Country. Individuals of extended views, and of national pride, may bring the public proceedings to this standard, but the example will never be followed by the multitude. Is it to be imagined that an ordinary citizen or even Assemblyman of R. Island in estimating the policy of paper money, ever considered or cared, in what light the measure would be viewed in France or Holland; or even in Mass^{ts} or Connec^{t}? It was a sufficient temptation to both that it was for their interest; it was a sufficient sanction to the latter that it was popular in the State; to the former, that it was so in the neighbourhood. 3dly. will Religion the only remaining motive be a sufficient restraint? It is not pretended to be such on men individually considered. Will its effect be greater on them considered in an aggregate view? quite the reverse. The conduct of every popular assembly acting on oath, the strongest of religious ties, proves that individuals join without remorse in acts, against which their consciences would revolt if proposed to them under the like sanction, separately in their closets. When indeed Religion is kindled into enthusiasm, its force like that of other passions, is increased by the sympathy of a multitude. But enthusiasm is only a temporary state of religion,

and while it lasts will hardly be seen with pleasure at the helm of Government. Besides as religion in its coolest state is not infallible, it may become a motive to oppression as well as a restraint from injustice. Place three individuals in a situation wherein the interest of each depends on the voice of the others; and give to two of them an interest opposed to the rights of the third? Will the latter be secure? The prudence of every man would shun the danger. The rules & forms of justice suppose & guard against it. Will two thousand in a like situation be less likely to encroach on the rights of one thousand? The contrary is witnessed by the notorious factions & oppressions which take place in corporate towns limited as the opportunities are, and in little republics when uncontrouled by apprehensions of external danger. If an enlargement of the sphere is found to lessen the insecurity of private rights, it is not because the impulse of a common interest or passion is less predominant in this case with the majority; but because a common interest or passion is less apt to be felt and the requisite combinations less easy to be formed by a great than by a small number. The Society becomes broken into a greater variety of interests, of pursuits of passions, which check each other, whilst those who may feel a common sentiment have less opportunity of communication and concert. It may be inferred that the inconveniences of popular States contrary to the prevailing Theory, are in proportion not to the extent, but to the narrowness of their limits.

The great desideratum in Government is such a modification of the sovereignty as will render it sufficiently neutral between the different interests and factions, to controul one part of the society from invading the rights of another, and at the same time sufficiently controuled itself, from setting up an interest adverse to that of the whole Society. In absolute Monarchies the prince is sufficiently, neutral towards his subjects, but frequently sacrifices their happiness to his ambition or his avarice. In small Republics, the sovereign will is sufficiently controuled from such a sacrifice of the entire Society, but is not sufficiently neutral towards the parts composing it. As a limited monarchy tempers the evils of an absolute one; so an extensive Republic meliorates the administration of a small Republic.

An auxiliary desideratum for the melioration of the Republican form is such a process of elections as will most certainly extract from the mass of the society the purest and noblest characters which it contains; such as will at once feel most strongly the proper motives to pursue the end of their appointment, and be most capable to devise the proper means of attaining it.

OF ANCIENT & MODERN CONFEDERACIES.[1] MAD. MSS.

Lycian Confederacy.

In this confederacy the number of votes allotted to each member was proportioned to its pecuniary contributions. The Judges and Town magistrates were elected by the general authority in like proportion.

See Montesquieu[2] who prefers this mode.

The name of a federal republic may be refused to Lycia which Montesquieu cites as an example in which the importance of the members determined the proportion of their votes in the general Councils. The Gryson[3] League is a juster example. Code de l'Hum.[4] Confederation.

Lyciorum quoque *ανομιαν* celebrat Strabo: de quâ pauca libet heic subjungere. Fuêre eorum urbes XXIII, distinctæ in classes tres pro modo virium. In primâ classe censebantur maximæ sex, in alterâ mediæ, numero nobis incerto, in tertiâ reliquæ omnes, quarum fortuna minima. Et singulæ quidem urbes hæ domi res suas curabant, magistratus suos, ordinemque civilem suum habebant: universæ tamen in unum coëuntes unam communem rempublicam constituebant, concilioque utebantur uno, velut, senatu majore. In eo de bello, de pace, de fœderibus, denique de rerum Lyciacarum summâ deliberabant et statuebant. Coibant vero in concilium hoc ex singulis urbibus missi

[1] This memorandum is written on small sheets of paper, which, put together, formed a compact little book, suited to be carried in the pocket. There are 39 pages, and it would seem Madison intended extending it, for an extra page is headed "Gryson Confederacy."

[2] *L'Esprit des Lois* (1748).

[3] Canton of Grisons, Switzerland.

[4] *Code de l'Humanité on la Legislation*, by Felice in 13 vols.

cum potestate ferendi suffragii: utebanturque eâ in re jure æquissimo. Nam quælibet urbs primæ classis habebat jus suffragiorum trium, secundæ duorum, tertiæ unius. Eademque proportione tributa quoque conferebant, et munia alia obibant. Quemadmodum enim ratio ipsa dictat, et poscit æquitas, ut plura qui possident, et cæteris ditiores sunt, plura etiam in usus communes, et reipublicæ subsidia conferant, sic quoque eadem æquitatits regula postulat, ut in statuendo de re communi iidem illi plus aliis possint: præsertim cum eorundem magis intersit rempublicam esse salvam quam tenuiorum. Locum concilii hujus non habebant fixum & certum, sed, ex omnibus urbem deligebant, quæ videbatur pro tempore commodissima. Concilio coacto primum designabant Lyciarcham principem totius Reipublicæ, dein magistratus alios creabant partes reipublicæ administraturos demum judicia publica constituebant. Atque hæc omnia faciebant servatâ proportione eâdem, ut nulla omnino urbs præteriretur munerumve aut honorum horum non fieret particeps. Et hoc jus illibatum mansit Lyciis ad id usque tempus, quo Romani assumpto Asiæ imperio magnâ ex parte sui arbitrii id fecerunt.—Ubbo Emmius de Republica Lyciorum in Asia. [Apud Grovonii Thes., iv, 597.] [1]

[1] Translation: Strabo [Lib. xiv, cap. iii], moreover, mentions the lack of laws of the Lycians: concerning which we will add a little to what he says.—There were twenty-three cities, divided into three classes, according to their power. To the first class belonged the six largest, to the second those of intermediate rank, the number of which is uncertain, to the third all the rest, whose importance was very small. And each of these cities took care of its affairs at home, and had its own magistrates and its own system of civil government, but all, uniting, formed one joint republic, and had one deliberative assembly, a greater senate, as it were. In that assembly they deliberated and decided concerning war, peace and treaties, and, in a word, concerning all the affairs of Lycia. Persons sent from each city with the right to vote met in this assembly; and, in that matter, they were governed by a most equitable law. For any city of the first class had the right to cast three votes, of the second two, of the third one. In the same proportion they also paid taxes, and performed other duties. For as reason itself dictates, and as equity demands that those who possess more and are richer than others, should contribute more to the public service and the support of the State, thus also the same rule of equity requires that, in deciding with regard to the common interest, those same persons should have greater influence than others; espe-

Amphyctionic Confederacy

Instituted by Amphyction son of Deucalion King of Athens 1522 years Ant.: Christ.: Code De l'Humanité.

Seated first at Thermopylæ, then at Delphos, afterwards at these places alternately. It met half yearly to wit in the Spring & Fall, besides extraordinary occasions. Id. In the latter meetings, all such of the Greeks as happened to be at Delphos on a religious errand were admitted to deliberate, but not to vote. Encyclopedie. [1]

The number and names of the confederated Cities differently reported. The Union seems to have consisted originally of the Delphians and their neighbors only, and by degrees to have comprehended all Greece. 10, 11, 12, are the different numbers of original members mentioned by different Authors. Code de l'Humanité.

Each city sent two deputies one to attend particularly to Religious matters — the other to civil and criminal matters affecting individuals—both to decide on matters of a general nature. Id. Sometimes more than two were sent, but they had two votes only. Encyclop.

The Amphyctions took an oath mutually to defend and protect the united Cities—to inflict vengeance on those who should sacrilegiously despoil the temple of Delphos—to punish the violators of this oath—and never to divert the water courses of any of the Amphyctionic Cities either in peace or in war. Code de l'Hum. Æschines orat : vs. Ctesip.

The Amphyctionic Council was instituted by way of defence and terror agst the Barbarians. Dict^{re} de Treviux.

---

cially since they are more interested in the welfare of the State than are the poor. They had no fixed place for this assembly, but they selected, from the entire number, the city that seemed best suited to the occasion. The assembly having convened, they first designated a Lyciarch as head of the whole State; they next chose other magistrates to govern the component parts of the State, and finally, they established courts of justice. And they did all these things maintaining the same proportion, so that no city was neglected, or was excluded from participation in these functions and honors. And this state of things remained unchanged until the time when the Romans, having become masters of Asia, brought it also under their control.

[1] *Encyclopédie*, published under the direction of Diderot and d'Alembert.

Foedral Authority.

The Amphyctions had full power to propose and resolve whatever they judged useful to Greece. Encycop Pol. Œcon.

1. They judged in the last resort all differences between the Amphyctionic cities. Code de l'Hum.

2. mulcted the aggressors. Id.

3. employed whole force of Greece agst such as refused to execute its decrees. Id. & Plutarch, *Cimon.*

4. guarded the immense Riches of the Temple of Delphos, and decided controversies between the inhabitants and those who came to consult the Oracle. Encyclop.

5. superintended the Pythian games. Code de l'Hum.

6. exercised right of admitting new members. See decree admitting Philip, in Demosthenes on Crown.

7. Appointed General of the federal troops with full powers to carry their decrees into execution. Ibid.

8. Declared & carried on war. Code de l'Human.

Strabo says that the Council of the Amphyctions was dissolved in the time of Augustus; but Pausanias, who lived in the time of Antoninus Pius says it remained entire then, and that the number of Amphyctions was thirty. Potter's Gre. Ant: Vol. 1, p. 90.[1]

The institution declined on the admission of Phil and in the time of the Roman Emperors, the functions of the Council were reduced to the administration & police of the Temple. This limited authority expired only with the Pagan Religion. Code de l'Human.

Vices of the Constitution.

It happened but too often that the Deputies of the strongest Cities awed and corrupted those of the weaker, and that Judgment went in favor of the most powerful party. Id. see also Plutarch's Themistocles.

Greece was the victim of Philip. If her Confederation had been stricter, & been persevered in, she would never have yielded to Macedon, and might have proved a Barrier to the vast projects of Rome. Code de l'Hum.

Philip had two votes in the Council. Rawleigh Hist: World, lib. 4, c. 1, Sec. 7

[1] John Potter's *Archeologia Græca*, two volumes, Oxford, (1688–9).

The execution of the Amphyctionic powers was very different from the Theory. Id.—It did not restrain the parties from warring agst each other. Athens & Sparta were members during their conflicts. Quer. whether Thucidides or Xenophon in their Histories ever allude to the Amphyctionic authority which ought to have kept the peace?

See Gillies' Hist. Greece, particularly Vol. II. p. 345.

Achæan Confederacy

In 124 olymp^{d} the Patrians & Dymæans joined first in this league. Polyb. lib. 2, c. 3.[1]

This League consisted at first of three small Cities. Aratus added Sicyon, and drew in many other Cities of Achaia & Peloponnesus. Of these he formed a Republic of a peculiar sort. Code de l'Human.

It consisted of twelve cities, and was produced by the necessity of such a defence agst the Etolians. Encyclo. Pol. Œ. & Polyb. lib. 2.

The members enjoyed a perfect equality, each of them sending the number of deputies to the Senate. Id.

The Senate assembled in the Spring & Fall, and was also convened on extraordinary occasions by two Pretors charged with the administration during the recess, but who could execute nothing with^{t} the consent of the Inspectors. Id.

Fœderal Authority

1. The Senate composed of the deputies made war & peace. D'Albon I page 270

2. Appointed a Captain General annually. Co. d'Hum.

3. Transferred the power of deciding to ten Citizens taken from the deputies, the rest retaining a right of consultation only. Id.

4. Sent and received Ambassadors. D'Albon. Ibid.

5 appointed a prime Minister. D'Albon. Ibid.

6. Contracted foreign Alliances. Code de l'Hum.

7. Confederated Cities in a manner forced to receive the same laws & customs weights & measures: Id. & Polyb. lib. 2 cap. 3, yet considered as having each their independent police & Magistrates. Encyclop. Pol. Œcon.

[1] Polybe's *General History* (probably the Paris edition of 1609).

8. Penes hoc concilium erat summum rerum arbitrium, ex cujus decreto bella suscipiebantur, & finiebantur, pax conveniebat, fœdera feriebantur & solvebantur, *leges fiebant ratæ aut irritæ.* Hujus etiam erat Magistratus toti Societati communes eligere, legationes decernere &c. Regebant concilium prætor præcipue, si præsens esset, et magistratus alii, quos Achæi δημιουργοὺς nuncupabant. Ubbo Emmius.

Hi numero X erant suffragiis legitimi concilii, quod verno tempore habebatur, electi ex universa societate prudentia præcipui, quorum concilio potissimum prætor ex lege utebatur. Horum potestas & dignitas maxima erat post ipsum Prætorem, quos idcirco Livius, Polybium sequens, summum Achæorum magistratum appellabat. Cum his igitur de negociis gravioribus in concilio agitandis Prætor præconsultabat, nec de iis, nisi in id pars major consentiret, licebat ad consilium referre. Id.

Ista vero imprimis memorabilis lex est, vinculum societatis Achaicæ maximé stringens, et concordiam muniens, quâ interdictum fuit, ne cui civitati Societatis hujus participi fas esset, seorsim ad exteros ullos mittere legatos, non ad Romanos, non ad alios. Et hoc expressim inserta fuit pactis conventis Achæorum cum populo Romano. . . . Omnium autem laudatissima lex apud eos viguit &c., quâ vetitum, ne quis omnino, sive privatæ conditionis, seu magistratum gerens, ullam ob causam, quæcunque etiam sit, dona a Rege aliquo caperet.[1] Id.

[1] Translation: This assembly was invested with the supreme authority, and in pursuance of its decisions wars were begun and ended, and laws became valid and were abrogated. It was also within its province to choose magistrates common to the whole community, to decide upon sending embassies, etc. . . . The prætor, especially, presided over the assembly, if he was present, and also other magistrates, whom the Achæi called δημιουργοί. These were ten in number, and were elected from the entire community by a vote of the legitimate assembly (which was held in the spring) as being eminent for wisdom, and their advice was mainly followed by the prætor, according to law. Their power and dignity were next to those of the prætor and therefore Livy, following Polybius(II, 38 *seq.*), calls them the chief magistracy of the Achæans. With these therefore the prætor consulted beforehand concerning the transaction of the more important business in the assembly, nor was it allowable, unless the majority concurred, to lay it before the assembly.

That was indeed a specially memorable law, drawing very close the bond of the Achæan league, and strengthening harmony; by it any city forming part

Vices of the Constitution.

The defect of subjection in the members to the general authority ruined the whole Body. The Romans seduced the members from the League by representing that it violated their sovereignty. Code de l'Human.

After the death of Alexander, this Union was dissolved by various dissentions, raised chiefly thro' the acts of the Kings of Macedon. Every City was now engaged in a separate interest & no longer acted in concert. Polyb. lib. 2, cap. 3. After in 142 Olymp^{d}, they saw their error & began to think of returning to their former State. This was the time when Pyrhus invaded Italy. Ibid.

Helvetic Confederacy.

Commenced in 1308 by the temporary, and in 1315 by the perpetual Union of Uri, Switz & Underwald, for the defence of their liberties agst the invasions of the House of Austria. In 1315 the Confederacy included 8 Cantons, and 1513 the number of 13 was compleated by the accession of Appenzel. Code de l'Hum.

The General Diet representing the United Cantons is composed of two deputies from each. Some of their allies as the Abbi S^{t}. Gall &c., are allowed by long usage to attend by their deputies. Id.

All general Diets are held at such time & place as Zurich, which is first in rank & the depository of the common archives, shall name in a circular summons. But the occasion of annual conferences for the administration of their dependent bailages has fixed the same time, to wit the feast of St. John, for the General Diet. And the city of Frauenfeld in Turgovia is now the place of Meeting. Formerly it was the City of Baden. Id.

The Diet is opened by a Complimentary Address of the first Deputy of each Canton by turns, called the Helvetic salutation. It consists in a congratulatory review of circumstances & events favorable to their common interest—and exhortations to Union and patriotism.

---

of this league was forbidden to send, independently, ambassadors to any foreign nation; they were not to send them to the Romans, and not to others. And this was expressly inserted in the treaties of the Achæans with the Roman people. . . . The most excellent law of all was in force among them . . . whereby any one, whether a private individual or a magistrate, was forbidden to accept gifts from any King on any account whatever.

The deputies of the first canton Zurich propose the matters to be discussed. Questions are decided by plurality of voices. In case of division, the Bailiff of Turgovia has the casting one. The Session of the Diet continues about a month. Id.

After the objects of universal concern are despatched, such of the deputies whose Constituents have no share in the dependent bailages, withdraw, and the Diet then becomes a representation of the Cantons to whom these bailages belong, and proceeds to the consideration of the business relating thereto. Id.

Extraordinary Diets for incidental business or giving audience to foreign ministers may be called at any time by any one of the Cantons or by any foreign minister who will defray the expense of meeting. Seldom a year without an extraordinary Diet. Stanyan's Switzerland

There is an annual Diet of 12 Cantons by one deputy from each for the affairs of the Ultramontane bailages. Code de l'Human.

Particular Cantons also have their diets for their particular affairs, the time & place for whose meeting are settled by their particular Treaties.

All public affairs are now treated not in Gen[l] Diet, but in the particular Assemblies of Protestant & Catholic Cantons. D'Albon.

Foederal Authority

The title of Republic and Sovereign State improperly given to this Confederacy, which has no concentered authority the Diets being only a Congress of Delegates from some or all of the Cantons, and having no fixt objects that are national. Dictionaire de Suisse.

The 13 Cantons do not make one Commonwealth like the United Provinces, but are so many independent Comonwealths in strict alliance. There is not so much as any common instrument by which they are all reciprocally bound together; The 3 primitive Cantons alone being each directly allied to the other twelve. The others in many instances are connected [1] *indirectly* only, as allies of allies. In this mode any one Canton may draw

[1] Note in Madison's writings: By y[e] Convention of Stantz, any member attacked has a *direct* claim on the succour of the whole confederacy. Coxe, p. 343. William Coxe's *Voyages*.

in all the others to make a common cause in its defence. Stanyan.

The confederacy has no common Treasury—no common troops—no common Coin—no common Judicatory—nor any other common mark of sovereignty. Id.

The General Diet cannot terminate any interesting affair without special instructions, & powers, & the deputies accordingly take most matters proposed ad referendum. Code de l'Hum.

The Cantons individually exercise the right of sending & receiving ambassadors—making Treaties—coining money—proscribing the money of one another—prohibiting the importation and exportation of merchandise—furnishing troops to foreign States, and doing everything else which does not wound the liberty of any other Canton. Excepting a few cases specified in the Alliances and which directly concern the object of the league, no Canton is subject to the Resolutions of the plurality. Id.

The only establishment truly national is that of a federal army, as regulated in 1668, and which is no more than an eventual plan of defence adopted among so many allied States. Id.

1. The League consists in a perpetual defensive engagement agst external attacks and internal troubles. It may be regarded as an axiom in the public Law of the confederacy, that the federal engagements are precedent to all other political engagements of the Cantons. Id.

2. Another axiom is that there are no particular or common possessions of the Cantons for the defence of which the others are not bound as Guarantees or auxiliaries of Guarantees. Id.

3. All disputes are to be submitted to Neutral Cantons, who may employ force if necessary in execution of their decrees. Id. Each party to choose 4 Judges who may in case of disagreement chuse umpire, and these under oath of impartiality to pronounce definitive sentence, which all Cantons to enforce.—D'Albon. & Stan.

4. No Canton ought to form new alliances without the consent of the others [this was stipulated in consequence of an improper alliance in 1442 by Zurich with the House of Austria.] Id.

5. It is an essential Object of the league to preserve interior tranquillity by the reciprocal protection of the form of Governm^{t} established in each Canton, so that each is armed with the force

of the whole Corps for the suppression of rebellions & Revolts, and the History of Switzerland affords frequent instances of mutual succors for these purposes. Dict^re^ de Suisse.

6. The Cantons are bound not to give shelter to fugitives from Justice, in consequence of which each Canton can at this day banish malefactors from all the territories of the League. Id.

7. Tho' each Canton may prohibit the exportation & importation of merchandize, it must allow it to pass thro' from one neighboring Canton to another without any augmentation of the tolls. Code de l'Hum.

8. In claiming succors ag^st^ foreign powers, the 8 Elder Cantons have a more extensive right than the 5 Junior ones. The former may demand them of one another without explaining the motives of the quarrel. The latter cannot intermeddle but as mediators or auxiliaries ; nor can they commence hostilities without the sanction of the Confederates ; and if cited by their adversaries, cannot refuse to accept the other Cantons for arbiters or Judges. Dict^re^ de Suisse.

9. In general each Canton is to pay its own forces without compensation from the whole or the succoured party. But in case a siege is to be formed for the benefit of a particular Canton, this is to defray the expence of it, and if for the common benefit, each is to pay its just proportion. D'Albon. On no pretext is a Canton to be forced to march its troops out of the limits of Switzerland. Stanyan.

10. Foreign Ministers from different Nations reside in different Cantons. Such of them as have letters of credence for the whole Confederacy address them to Zurich the chief Canton. The Ambassador of France, who has most to do with the Confederacy is complimented at his Quarters by deputies from the whole body.

Vices of the Constitution

1. disparity in size of Cantons
2. different principles of Governm^t^ in diff^t^ Cantons
3. intolerance in Religion
4. weakness of the Union. The comon bailages wch served as a cement, sometimes become occasions of quarrels. Dict^re^ de Suisse.

In a treaty in 1683 with Victor Amadœus of Savoy, it is stip-

ulated that he shall interpose as Mediator in disputes between the Cantons, and if necessary use force agst the party refusing to submit to the sentence. Dict^{re} de Suisse.—a striking proof of the want of authority in the whole over its parts.

Belgic Confederacy

established in 1679 by the Treaty called the Union of Utrecht. Code de l'Humanité.

The provinces came into this Union slowly. Guelderland the smallest of them made many difficulties. Even some of the Cities & towns pretended to annex conditions to their acceding. Id.

When the Union was originally established a committee composed of deputies from each province was appointed to regulate affairs, and to convoke the provinces according to art. XIX of the Treaty. Out of this Committee grew the States General Id.—who strictly speaking are only the Representatives of the States General who amount to 800 members. Temple, p. 112.[1]

The number of Deputies to the States General from each province not limited, but have only a single voice. They amount commonly, all together to 40 or 50. They hold their seats, some for life, some for 6 3 & 1 years, & those of Groninguen & Overyssel during pleasure. They are paid, but very moderately, by their respective constituents, and are amenable to their Tribunals only. Code de l'Hum. No military man is deputable to the States Genl Id.

Ambass^{rs} of Republic have session & deliberation but no suffrage in States Genl. Id. The grand pensioner of Holland as ordinary deputy from Holland, attends always in the States Genl, & makes the propositions of that Province to States G^{l}. Id.

They sit constantly at the Hague since 1593, and every day in the week except Saturday & Sunday. The States of Holland in granting this residence, reserve by way of protestation, the rights, the honors & prerogatives belonging to them as sovereigns of the Province; yielding the States Genl only a rank in certain public ceremonies. Id.

The eldest deputy from each province presides for a week by turns. The president receives letters &c. from the Ministers of the Republic at foreign Courts, and of foreign Ministers residing

[1] Sir William Temple's *Remarks on the United Provinces* (1674).

at the Hague, as well as of all petitions presented to theAssembly ; all which he causes to be read by the Secretary. Id.

The Secretary besides correcting & recording the Resolutions prepares & despatches instructions to Ministers abroad—& letters to foreign powers. He assists also at conferences held with foreign Ministers & *there gives his voice.* He has a deputy when there is not a second Secretary. The Agent of the States Gen[l] is charged with the Archives and is also employed on occasions of receiving foreign Ministers or sending Messages to them. Id.

Federal Authority.

The avowed objects of the Treaty of Union. 1. to fortify the Union—2. to repel the common enemy. Id

The Union is to be perpetual in the same manner as if the Confederates formed one province only, without prejudice however to the privileges & rights of each province & City. Id.

Differences between provinces & between Cities are to be settled by the ordinary Judges—by arbitration—by amicable agreement, without the interference of other provinces otherwise than by way of accommodation. The Stadtholder is to decide such differences in the last resort. Id.

No change to be made in the articles of Union, without unanimous consent of the parties & everything done contrary to them to be null & void. Id

States General. 1. execute, without consulting their constituents, treaties & alliances already formed. Id.

2. take oaths from Generals & Govern[rs], and appoint Field Deputies

3. The collection of duties on imports & exports and the expedition of Safe Conducts are in their name & by their officers. Id.

4. they superintend & examine accounts of the E. India Company. Id

5. inspect the Mint—appoint les Maitres de la Monnoye—fix la *taille* & la valeur of the Coin, having always regard to the regular rights of the provinces within their own Territories. Id.

6. Appoint a Treasurer General & Receiver General of the Quotas furnished by the Provinces. Id.

7. elect out of a double nomination, the fiscal & other officers within the departments of the admiralties, except that the High

officers of the fleet are appointed by the Admiral General, to whom the maritime provinces have ceded this right. Id.—The Navy supported by duties on foreign trade, appropriated thereto by the maritime provinces, for the benefit of the whole Republic. Id.

8. They govern as sovereigns, the dependent territories, according to the several capitulations. Id.

9. they form Committees of their own body of a member from each deputation, for foreign affairs—finances marine —& other matters. At all these conferences the Grand Pensioner of Holland & the Secretary of the States Genl attend and have a deciding voice. Id.

10. App^{t} & receive Ambass^{rs}—negociate wth foreign powers—deliberate on war—peace—alliances—the raising forces—care of fortifications—military affairs *to a certain degree*—the equipment of fleets—building of ships—directions concerning money. Id. But they can neither make peace—nor war—nor truces—nor treaties—nor raise troops—nor impose taxes, nor do other acts requiring unanimity without consulting & obtaining the sanction of the Provinces. Id. Coining money also requires unanimity & express sanction of provinces. Temple. repealing an old law on same footing. Burrish. Batav. illustrata. In points not enumerated in this article plurality of voices decides. Code de l'Hum.

11. composition & publication of edicts & proclamations relative both to the objects expressed in the articles of Union and to the measures taken for the comon good, are in the name of the States, and altho' they are addressed to the States of the Provinces who announce them with their sanction, still it is in the name of the States Genl that obedience is required of all the inhabitants of the provinces. Code de l'Hum.

The Provinces have reserved to themselves

1. their sovereignty within their own limits in general. Code de l'Hum.

2. the right of coining money, as essential to Sovereignty, but agreed at the same time that the money which s^{d} be current throughout the Republic s^{d} have the same intrinsic value: To give effect to which regulation a mint is established at the Hague

under a chamber which has the inspection of all money struck either in name of States Gen[l] or particular provinces, as also of foreign coin. Id.—Coining money not in provinces or Cities, but in the generality of Union by comon agreement. Temple.

3. Every province raises what money & by what means it pleases, and sends its quota to Receiver General Temple.

The quotas were not settled without great difficulty. Id.

4. the naming to Gover[ts] of Towns within themselves—keeping keys & giving word to Magistrates—a power over troops in all things not military—conferring Col[s] Comissions & inferior posts in such Regiments as are paid by the provinces respectively —taking oath of fidelity—concerning a revocation of all which the States Gen[l] are not permitted to deliberate. Id.

The Provinces are restricted

1. from entering into any foreign Treaties without consent of the rest. Code de Hum.

2. from establishing imposts prejudicial to others without general consent. Id.

3. from charging their neighbours with higher duties than their own subjects. Id.

Council of State.—composed of deputies from the provinces in different proportions. 3 of them are for life, the rest generally for 3 years : they vote per capita. Temple.

They are subordinate to the States General, who frequently however consult with them. In matters of war which require secrecy they act of themselves. Military & fiscal matters are the objects of their administration. They vote

They execute the resolutions of the States Gen[l], propose requisitions of men & money & superintend the fortifications &c., & the affairs of revenues & Gov[ts], of the conquered possessions. Temple.

Chamber of Accounts, was erected for the ease of the Council of State. It is subordinate to the States Gen[l], is composed of two deputies from each province, who are changed triennially. They examine and state all acc[ts] of the several Receivers—controul and register orders of Council of State disposing of the finances. Id.

College of Admiralty established by the States Gen[l] 1597 is

subdivided into five of wch three are in Holland—one in Zealand —one in Friezland, each composed of 7 deputies, 4 app^d^ by the province where the admiralty resides & 3 by the other provinces. The vice-Admiral presides in all of them when he is present. Temple.

They take final cognizance of all crimes & prizes at sea ; —— —— —— —— of all frauds in customs provide quota of fleets resolved on by States Genl app^t^ Capt^s^ & superior officers of each squadron take final cognizance also of Civil matters within 600 florins—an appeal lying to States Genl for matters beyond that sum. Code de l'Hum. & Temple.

The authority of States Genl in Admiralty Depmart^t^ is much limited by the influence & privileges of maritime provinces, & the jurisdiction herein is full of confusion & contradiction. Code de l'humanité.

Stadtholder who is now hereditary in his *political* capacity is authorized 1. to settle differences between provinces, provisionally till other methods can be agreed on, which having never been this prerogative may be deemed a permanent one. Code de l'Hum.

2. Assists at deliberations of States Genl & their particular conferences, recommends & influences appointm^t^ of Ambassadors. Id.

3. has seat & suffrage in Council of State. Id.

4. presiding in the provincial Courts of Justice where his name is prefixed to all public acts. Id.

5 supreme Curator of most of the Universities. Id.

6. As Stadtholder of the provinces has considerable rights partaking of the sovereignty, as appointing town magistrates on presentation made to him of a certain number. Executing provincial decrees &c Id. & Mably, Etud. de l'hist.

7. gives audiences to Ambassadors & may have Agents with their Sovereigns for his private affairs. Mab. Ibid[1]

8. exercises power of pardon. Temple.

In his *Military* capacity as Capt Genl

1. commands forces—directs marches—provides for garrisons— & in general regulates military affairs. Code de l'Hum.

2. disposes of all appointm^ts^, from Ensigns to Col^s^. The

[1] Gabriel Bonnot de Mably (1709-1785).

Council of State hav^g surrendered to him the appointm^ts within their disposal Id. & the States Genl app^t the higher grades on his recomendation. Id

3. disposes of the Gov^ts &c. of the fortified towns tho' the comissions issue from the States Genl Id.

In his *Marine* capacity as Admiral General 1. superintends & directs everything relative to naval forces & other affairs within Admiralty. Id

2 presides in the Admiralties in person or by proxy. Id

3 Appoints Lieu^ts. Admirals & officers under them. Id.

4. establishes Councils of war, whose sentences are in the name of the States Genl & his Highness and are not executed till he approves. Id.

The Stadtholder has a general & secret influence on the great machine which cannot be defined. Id.

His Revenue from appointm^ts amount to 300,000 florins, to which is to be added his extensive patrimonies. Id.

The standing army of the Republic, 40,000 men.

Vices of the Constitution

The Union of Utrecht imports an authority in the States Genl seemingly sufficient to secure harmony; but the Jealousy in each province of its sovereignty renders the practice very different from the Theory. Code de l'Hum.

It is clear that the delay occasioned by recurring to seven independent provinces including about 52 voting Cities &c. is a vice in the Belgic Republic which exposes it to the most fatal inconveniences. Accordingly the fathers of their country have endeavored to remedy it in the extraordinary Assemblies of the States Genl in (1584) in 1651, 1716, 1717, but unhappily without effect. This vice is notwithstanding deplorable. Id.—Among other evils it gives foreign ministers the means of arresting the most important deliberations by gaining a single province or city. This was done by France in 1726, when the Treaty of Hanover was delayed a whole year. In 1688 the States concluded a Treaty of themselves but at the risk of their heads. Id. It is the practice also in matters of contribution or subsidy to pass over this article of the Union, for where delay w^d be dangerous the consenting provinces furnish their quotas without waiting for the others, but

by such means the Union is weakened and if often repeated must be dissolved—Id.

Foreign Ministers elude matters taken ad referendum by tampering with the provinces & Cities. Temple p. 116.

Treaty of Union obliges each Province to levy certain contributions. But this article never could probably never will be executed because the inland provinces who have little commerce cannot pay an equal Quota. Burrish, Bat. illustrat:

Deputations from agreeing to disagreeing provinces frequent. Temple.

It is certain that so many independent Corps & interests could not be kept together without such a center of Union as the Stadtholdership, as has been allowed & repeated in so many solemn Acts. Code de Hum.

In the intermission of the Stadtholdership Holland by her Riches & Authority which drew the others into a sort of dependence, supplied the place. Temple.

With such a Governm^{t} the Union never c^{d} have subsisted, if in effect the provinces had not within themselves a spring capable of quick—ing their tardiness, and impelling them to the same way of thinking. This Spring is the Stadtholder. His prerogatives are immense—1, &c. &c.—A strange effect of human contradictions. Men too jealous to confide their liberty to their representatives who are their equals, abandoned it to a prince who might the more easily abuse it as the affairs of the Republic were important & had not them fixed themselves. Mably Etude d'Hist., 205. 6.

Grotius has s^{d} that the hatred of his countrymen agst the H of Austria kept them from being destroyed by the vices of their Constitution. Ibid.

The difficulty of procuring unanimity has produced a breach of fundamentals in several instances—Treaty of Westphalia was concluded without consent of Zealand &c D'Albon & Temple —These tend to alter the constitution D'Albon.

It appears by several articles of the Union that the confederates had formed the design of establishing a Genl tax, [Impôt,] to be administered by the States Genl. But this design so proper for bracing this happy Union has not been executed. Code de l'Hum.

Germanic Confederacy—took its present form in the year ——. —Code de l'Hum.

The Diet is to be convoked by the Emperor, or on his failure, by the Archbishop of Mentz, with consent of Electors once in ten years at least from the last adjournment, and six months before the time of meeting. Ratisbon is the seat of the Diet since 1663.

The members amount to 285, and compose three Colleges, to wit, that of the Electors—of Princes—of Imperial Cities. The voices amount to 159, of which 153 are individual & 6 collective. The latter are particular to the College of princes and are formed out of 39 prelates &c. and 93 Counts &c. The individual voices are common to the three Colleges, and are given by 9 Electors—94 princes, 33 of the ecclesiastical & 61 of the secular Bench—& 50 Imperial Cities, 13 of the Rhenish, & 37 of the Suabian Bench. The K. of Prussia has nine voices in as many different capacities. Id

The three Colleges assemble in the same House but in different apartments Id

The Emperor as head of the Germanic body is presid[t] of the Diet. He & others are represented by proxies at present. Id

The deliberations are ground[d] on propositions from Emperor & commerce in the College of Electors, from whence they pass to that of the princes, & thence to that of the Imperial Cities. They are not resolutions till they have been passed in each. When the Electors & Princes cannot agree, they confer; but do not confer with the Imperial Cities. plurality of voices decide in each College, except in matters of Religion & a few reserved cases, in which according to the Treaty of Westphalia, and the Imperial Capitulations the Empire is divided into the Catholic & Evangelic Corps. Id.

After the Resolutions have passed the three Colleges, they are presented to the Representative of the Emperor, without whose ratification they are null. Id they are called placita after passing the three Colleges—conclusa after ratification by Emperor. Id.

The Collection of Acts of one Diet is called the Recess, which cannot be made up & have the force of law, till the Close of the Diet. the subsisting diet has not been closed for more than a

hundred years, of course it has furnished no effective Resolution, though a great number of Interesting ones have passed. This delay proceeds from the Imperial Court who refuse to grant a Recess, notwithstanding the frequent and pressing applications made for one. Id

Fœderal Authority.

The powers as well as the organization of the Diet have varied at different times. Antiently it elected as a corps the Emperors and judged of their Conduct. The Golden Bull gives this right to the Electors alone. Antiently it regulated tolls—at present the Electors alone do this. Id

The Treaty of Westphalia & the capitulations of the Emperors from Charles V downwards, define the present powers of the Diet. These concern—1. Legislation of the Empire—2. War & peace & alliances—3. raising troops—4. contributions—5 construction of fortresses—6 Money—7 Ban of the Empire. 8 Admission of new princes—9. the Supreme tribunals—10. disposition of Grand fiefs & grand Charges—In all these points the Emperor & Diet must concur. Id

The Ban of the Empire is a sort of proscription by which the disturbers of the public peace are punished. The offenders life & goods are at the mercy of every one, formerly the Emperors themselves pronounced the ban agst those who offended them. It has been since regulated that no one shall be exposed to the Ban without the examination & consent of the Diet. Encyclop.

By the Ban the party is outlawed, degraded from all his federal rights—his subjects absolved from their allegiance—and his possessions forfeited. Code de l'Hum.

The Ban is incurred when the Emperor or one of the supreme Tribunals address an order to any one, on pain in case of disobedience, of being proscribed ipso facto. Id.

The Circles formerly were in number 6 only. There are now ten. They were instituted for the more effectual preservation of the public peace, and the execution of decrees of Diet & supreme Tribunals against contumacious members, for which purposes they have their particular diets, with the chief prince of the Circle at their head, have particular officers for commanding the forces of the Circle, levy contributions, see that Justice is duly

administered—that the coin is not debased—that the customs are not unduly raised.—Savage vol. 2 p. 35.

If a Circle fail to send its due succours, it is to pay damages suffered therefrom to its neighbours. If a member of the circle refuse, the Col. of the Circle is to admonish, & if this be insufficient, the delinquent party is to be compelled under a sentence from the Imperial Chamber. Id.

Aulic Council [established by Diet in 1512. Encyclop.,] composed of members appointed by the Emperor. Code de l'Hum.

Its cognizance is restrained to matters above 2,000 Crowns; is concurrent with the jurisdiction of the Imperial Chamber in controversies between the States—also in those of subjects of the Empire by way of appeal from subaltern Tribunals of the Empire, and from sovereign tribunals of princes. Id.—Arms are to be used for carrying its decrees into execution, as was done in 1718 by the troops of the Circle of upper Rhine in a controversy between Landgrave of Hesse Cassel & Prince of Hesse of Rhinfitz. Id.

Imperial Chamber, established in 1495 by the Diet as a means of public peace, by deciding controversies between members of the Empire. Code de l'Hum.

This is the first Tribunal of the Empire. It has an appellate jurisdiction in all Civil, and fiscal causes or where the public peace may be concerned. It has a concurrent jurisdiction with the Aulic Council; and causes cannot be removed from one to the other. Id.

The Judges of this Tribunal are appointed partly by the Emperor—partly by Electors—partly by circles—are supported by all the States of the Empire, excepting the Emperor. They are badly paid, though great salaries are annexed to their offices. Id.

In every action, real or personal—The Diet—Imperial Chamber and Aulic Council are so many supreme Courts to which none of the States can demur. The jurisprudence, by which they govern themselves, are according to the subject matter—1. the provincial laws of Germany 2. the Scripture—3 the law of nature—4 law of Nations—5 the Roman law—6 the canon law—7 the fœdal law of the Lombards. Id.

Members of Diet as such are subject in all public affairs to be judged by Emperor & Diet,—as individuals in private capacity are subject to Aulic Council & Imperial Chamber. Id.

The members have reserved to themselves the right 1. to enter into war & peace with foreign powers 2 to enter into alliances with foreign powers and with one another, not prejudicial to their engagements to the Empire Code de 'Hum.—3 to make laws, levy taxes, raise troops, to determine on life & death. Savage. 4 Coin money. Id. 5. exert territorial sovereignty within their limits in their own name. Code de l'Hum. 6. to grant pardons. Savage, p. 44. 7. to furnish their quotas of troops, equipped mounted & armed & to provide for sustenance of them, as if they served at home. Code de l'Hum.

Members of Empire restricted

1. from entering into Confederacies prejudicial to the Empire.

2. from laying tolls or customs upon bridges, rivers, or passages to which strangers are subject, without consent of the Emperor in full Diet.

3. cannot give any other value to money, nor make any other kind of money, than what is allowed by the Empire. Savage vol. 2, p. 45.

4. (by edict of 1548, particularly) from taking arms one agst another, from doing themselves justice—from affording retreat, much more, assistance to infractors of the public peace; the ban of the Empire being denounced agst the transgressors of these prohibitions, besides a fine of 2000 marks of gold and loss of regalities.—Code d'Hum.

Emperor.—has the prerogative 1. of exclusively making propositions to the Diet—2 presiding in all Assemblies & Tribunals of the Empire when he chuses—3 of giving suffrage in all affairs treated in the diet—4 of negativing their resolutions—5 of issuing them in his own name—6 of watching over the safety of the Empire—7 of naming Ambassadors to negociate within the Empire as well as at foreign Courts—affairs concerning the Germanic Corps. 8. of re-establishing in good fame persons dishonored by Council of war & civil Tribunals. Code d'Hum.—9 of giving investiture of the principal immediate fiefs of the Empire, wch is not indeed of much consequence—10 of con-

ferring vacant electorates—11 of preventing subjects from being withdrawn from the jurisdiction of their proper Judge—12. Of conferring charges of the Empire. 13 of conferring dignities & titles as of Kings &c.—14 of instituting military orders—15 of granting the dernier resort—16. of judging differences & controversies touching tolls—17. of deciding contests between Catholic & Protestant States touching precedence &c.—Id.—18. of founding Universities within the lands of the States, so far as to make the person endowed with Academic honors therein be regarded as such throughout Germany.—19 of granting all sorts of privileges not injurious to the States of the Empire—20 of establishing great fairs—21 of receiving the droit des Postes generales—22 of striking money, but without augumenting or diminishing its value. 23 of permitting strangers to enlist soldiers, conformably to Recess of 1654. Id. 24. Of receiving and applying Revenues of Empire.—Savage, p. . He cannot make war or peace, nor laws, nor levy taxes nor alter the denomination of money nor weights or measures.—Savage, v. 2, p. 35. The Emperor as such does not properly possess any territory within the Empire, nor derive any revenue for his support. Code de 'Hum.

Vices of the Constitution.

1. The Quotas are complained of & supplied very irregularly & defectively Code de 'Hum. provision is made by decree of diet for enforcing them, but it is a delicate matter to execute it agst the powerful members. Id.

2. The establishm^{t} of Imperial Chamber has not been found an efficacious remedy agst civil wars. It has committed faults. *The Ressortissans* have not always been docile. Id.

3. Altho' the establishm^{t} of Imperial Chambers &c give a more regular form to the police of the fiefs, it is not to be supposed they are capable of giving a certain force to the laws and maintaining the peace of the Empire if the House of Austria had not acquired power eno' to maintain itself on the imperial Throne, to make itself respected, to give orders which it might be imprudent to despise, as the laws were therefore despised. Mabley Etude d' hist., p. 180

[Jealousy of the Imperial authority seems to have been a great cement of the Confederacy.]

ORIGIN OF THE CONSTITUTIONAL CONVENTION. MAD. MSS.

A SKETCH NEVER FINISHED NOR APPLIED.[1]

As the weakness and wants of man naturally lead to an association of individuals under a Common Authority, whereby each may have the protection of the whole against danger from without, and enjoy in safety within, the advantages of social intercourse, and an exchange of the necessaries & comforts of life; in like manner feeble communities, independent of each other, have resorted to a Union, less intimate, but with common Councils, for the common safety agst powerful neighbors, and for the preservation of justice and peace among themselves. Ancient history furnishes examples of these confederal[2] associations, tho' with a very imperfect account, of their structure, and of the attributes and functions of the presiding Authority. There are examples of modern date also, some of them still existing, the modifications and transactions[3] of which are sufficiently known.

It remained for the British Colonies, now United States, of North America, to add to those examples, one of a more interesting character than any of them[4] which led to a system without an example[5] ancient or modern, a system founded on popular rights, and so combining a federal form with the forms of individual Republics, as may enable each to supply the defects of the other and obtain that advantage of both.

Whilst the Colonies enjoyed the protection of the parent Country as it was called, against foreign danger; and were secured

[1] From the context it would appear that this sketch was written about the year 1835, when Madison was preparing for posthumous publication his journal of the constitutional convention. It is an exceedingly rough draft, written upon separate slips of paper, and some of these slips have been lost since Gilpin used the sketch in his edition of *Madison's Works* (1840). The *Bulletin of the Bureau of Rolls and Library*, Department of State, No. 9, October, 1897, contained about a fifth part of the sketch, but since then all of it has been found, except the last four paragraphs which are reprinted here from the Gilpin edition.

[2] The word "confederacies" also appears here parallel with "confederal."

[3] The word "operations" also appears here.

[4] "and leading to another" also appears.

[5] The word "precedent" also appears.

by its superintending controul, against conflicts among themselves, they continued independent of each other, under a common, tho' limited dependence, on the Parental Authority. When however the growth of the offspring in strength and in wealth, awakened the jealousy and tempted the avidity of the parent, into schemes of usurpation & exaction,[1] the obligation was felt by the former of uniting their Counsels and efforts, to avert the impending calamity.

As early as the year 1754, indications having been given of a design[2] in the British government to levy contributions on the Colonies, without their consent; a meeting of Colonial deputies took place at Albany, which attempted to introduce a compromising substitute, that might at once satisfy the British requisitions, and save their own rights from violation. The attempt had no other effect, than by bringing these rights into a more conspicuous view, to invigorate the attachment to them, on the one side; and to nourish the haughty & encroaching spirit on the other.

In 1774. The progress made by G. B. in the open assertion of her pretensions, and the apprehended purpose of otherwise maintaining them by Legislative enactments and declarations, had been such that the Colonies did not hesitate to assemble, by their deputies, in a formal Congress, authorized to oppose to the British innovations whatever measures might be found best adapted to the occasion; without however losing sight of an eventual reconciliation.

The dissuasive[3] measures of that Congress, being without effect, another Congress was held[4] in 1775, whose pacific efforts to bring about a change in the views of the other party, being equally unavailing, and the commencement of actual hostilities having at length put an end to all hope of reconciliation; the Congress finding moreover that the popular voice began to call for an entire & perpetual dissolution of the political ties which had connected them with G. B., proceeded on the memorable 4th of July, 1776 to declare the 13 Colonies Independent States.

[1] "extortion" also appears.
[2] "plan" also appears.
[3] "experimental" also appears.
[4] "met" also appears.

During the discussions of this solemn Act, a Committee consisting of member from each colony had been appointed, to prepare & digest a form of Confederation, for the future management of the Common interests, which had hitherto been left to the discretion of Congress, guided by the exigencies of the contest, and by the known intentions or occasional instructions of the Colonial Legislatures.

It appears that as early as the 21st of July 1775, A plan entitled "Articles of Confederation & *perpetual* Union of the Colonies," had been sketched by Doct Franklin, The plan being on that day submitted by him to Congress; and tho' not copied into their Journals remaining on their files in his handwriting. But notwithstanding the term "perpetual" observed in the title, the articles provided expressly for the event of a return of the Colonies to a connection with G. Britain.

This sketch became a basis for the plan reported by the Comee on the 12th of July, now also remaining on the files of Congress, in the handwriting of Mr. Dickinson. The plan, tho' dated after the Declaration of Independence, was probably drawn up before that event; since the name of *Colonies*, not *States* is used throughout the draught. The plan reported, was debated and amended from time to time, till the 17th of November 1777, when it was agreed to by Congress, and proposed to the Legislatures of the States, with an explanatory and recommendatory letter. The ratifications of these by their Delegates in Congs duly authorized took place at successive dates, but were not compleated till March 1, 1781, when Maryland who had made it a prerequisite[1] that the vacant lands acquired from the British Crown should be a common fund, yielded to the persuasion that a final & formal establishment of the federal Union & Govt would make a favorable impression not only on other foreign Nations, but on G. B. herself.

The great difficulty experienced in so framing the fedl system as to obtain the unanimity required for its due sanction, may be inferred from the long interval, and recurring discussions, between the commencement and completion of the work; from the changes

[1] "preliminary" also appears.

made during its progress; from the language of Cong[s] when proposing it to the States, wch dwelt on the impracticability of devising a system acceptable to all of them; from the reluctant assent given by some; and the various alterations proposed by others; and by tardiness in others again which produced a special address to them from Cong[s], enforcing the duty of sacrificing local considerations and favorite opinions to the public safety, and the necessary harmony: Nor was the assent of some of the States finally yielded without strong protests against particular articles, and a reliance on future amendments removing their objections.

It is to be recollected, no doubt, that these delays might be occasioned in some degree, by an occupation of the Public Councils both general & local, with the deliberations and measures, essential to a Revolutionary struggle; But there must have been a balance for these causes, in the obvious motives to hasten the establishment of a regular and efficient Gov[t]; and in the tendency of the crisis to repress opinions and pretensions,[1] which might be inflexible in another state of things.

The principal difficulties which embarrassed the progress, and retarded the completion of the plan of Confederation, may be traced to 1. the natural repugnance[2] of the parties to a relinquishment of Power; 2 a natural jealousy of its abuse in other hands than their own; 3 the rule of suffrage among parties unequal in size, but equal in sovereignty; 4 the ratio of Contributions in money and in troops, among parties, whose inequality in size did not correspond with that of their wealth, or of their military or free population; 5, the selection and definition of the powers, at once necessary to the federal head, and safe to the several members.

To these sources of difficulty, incident to the formation of all such Confederacies, were added two others one of a temporary, the other of a permanent nature. The first was the case of the Crown lands, so called because they had been held by the British Crown, and being ungranted to individuals when its authority ceased, were considered by the States within whose charters or

[1] "that would not be abandoned" also appears.
[2] "reluctance" also appears.

asserted limits they lay, as devolving on them ; whilst it was contended by the others, that being wrested from the dethroned Authority, by the equal exertions of all, they resulted of right and in equity to the benefit of all. The lands being of vast extent and of growing value, were [1] the occasion of much discussion & heart-burning ; & proved the most obstinate of the impediments to an earlier consummation of the plan of federal Gov[t]. The State of Maryland the last that acceded to it held out as already noticed, till the 1. March 1781 and then yielded only to the hope that by giving a stable & authoritative character to the Confederation, a successful termination of the Contest might be accelerated. The dispute was happily compromised by successive surrenders of portions of the territory by the States having exclusive claims to it, and acceptances of them by Congress.

The other source of dissatisfaction was the peculiar situation of some of the States, which having no convenient ports for foreign commerce, were subject to be taxed by their neighbors, thro' whose ports, their commerce was carried on. New Jersey placed between Phil[a] & N. York, was likened to a cask tapped at both ends ; And N. Carolina, between Virg[a] & S. Carolina to a patient bleeding at both Arms. The Articles of Confederation provided no remedy [2] for the complaint ; which produced a strong protest on the part of N. Jersey ; and never ceased to be a source of dissatisfaction & discord, until the new Constitution superseded the old.

But the radical infirmity of the "Art[s] of Confederation" was the dependence of Cong[s] on the voluntary and simultaneous compliance with its Requisitions, by so many independent Communities, each consulting more or less its particular interests & convenience and distrusting the compliance of the others. Whilst the paper emissions of Cong[s] continued to circulate they were employed as a sinew of war, like gold & silver. When that ceased to be the case, and the fatal defect of the political System was felt in its alarming force, the war was merely kept alive and brought to a successful conclusion by such foreign aids and temporary expedients as could be applied ; a hope prevailing with many, and a wish with all, that a state of peace, and the sources of prosperity opened

[1] "was" also appears.

[2] "relief" also appears.

by it, would give to the Confederacy in practice, the efficiency which had been inferred from its theory.

The close of the war however brought no cure for the public embarrassments. The States relieved from the pressure of foreign danger, and flushed with the enjoyment of independent and sovereign power; (instead of a diminished disposition to part with it), persevered in omissions and in measures incompatible with their relations to the Federal Gov^t and with those among themselves.

Having served as a member of Cong^s through the period between Mar. 1780 & the arrival of peace in 1783, I had become intimately acquainted with the public distresses and the causes of them. I had observed the successful opposition to every attempt to procure a remedy by new grants of power to Cong^s I had found moreover that despair of success hung over the compromising provision of April 1783, for the Public necessities, which had been so elaborately planned and so impressively recommended to the States.[1] Sympathizing, under this aspect of affairs, in the alarm of the friends of free Gov^t at the threatened danger of an abortive result to the great & perhaps last experiment in its favour, I could not be insensible to the obligation to co-operate as far as I could in averting the calamity. With this view I acceded to the desire of my fellow Citizens of the County that I should be one of its representatives in the Legislature, hoping that I might there best contribute to inculcate the critical posture to which the Revolutionary cause was reduced, and the merit of a leading agency of the State in bringing about a rescue of the Union, and the blessings[2] of liberty staked on it, from an impending catastrophe.

It required but little time after taking my seat in the House of Delegates in May 1784, to discover that however favorable the general disposition of the State might be towards[3] the Confederacy the Legislature retained the aversion of its predecessors to transfers of power from the State to the Gov^t of the Union; notwithstanding the urgent demands of the Federal Treasury; the glaring inadequacy of the authorized mode of supplying it, the rapid

[1] See address of Congress. Note in MS. It may be found in Vol. I, p. 454, n., of this edition.

[2] "cause" also appears.

[3] "to" also appears.

growth of anarchy in the Fed[l] System, and the animosity kindled among the States [1] by their conflicting regulations.

The temper of the Legislature & the wayward course of its proceedings may be gathered from the Journals of its Sessions in the years 1784 & 1785.

The failure however of the varied propositions in the Legislature, for enlarging the powers of Congress, the continued failure of the efforts of Cong[r] to obtain from them the means of providing for the debts of the Revolution; and of countervailing the commercial laws of G. B., a source of much irritation & ag[st] which the separate efforts of the States were found worse than abortive; these Considerations with the lights thrown on the whole subject, by the free & full discussion it had undergone led to a general acquiescence in the Resol[n] passed on the 21. of Jan[y] 1786, which proposed & invited a meeting of Deputies from all the States to—insert the Resol. (See Journal.)[2]

The resolution had been brought forward some weeks before on the failure of a proposed grant of power to Congress to collect a revenue from commerce, which had been abandoned by its friends in consequence of material alterations made in the grant by a Committee of the whole. The Resolution Tho introduced by Mr. Tyler an influential member, who having never served in Congress, had more the ear of the House than those whose services there exposed them to an imputable bias, was so little acceptable that it was not then persisted in. Being now revived by him, on the last day of the Session, and being the alternative of adjourning without any effort for the crisis in the affairs of the Union, it ob-

[1] "its members" also appear.

[2] "*Resolved*, that Edmund Randolph, James Madison, Jr., Walter Jones, St. George Tucker, and Meriwether Smith, Esquires, be appointed Commissioners, who, or any three of whom, shall meet such Commissioners as may be appointed in the other States of the Union, at a time and place to be agreed on, to take into consideration the trade of the United States; to examine the relative situations and trade of said States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act, relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same." See Madison's letter of Jany. 22, 1786, to Jefferson.

tained a general vote ; less however with some of its friends from a confidence in the success of the experiment than from a hope that it might prove a step to a more comprehensive & adequate provision for the wants of the Confederacy.

It happened also that Commissioners appointed by Virg[a] & Mary[d] to settle the jurisdiction on waters dividing the two States had, apart from their official reports, recomẽended a uniformity in the regulations of the 2 States on several subjects & particularly on those having relation to foreign trade. It appeared at the time that Mary[d] had deemed a concurrence of her neighbors, Pen[a] & Delaware, indispensable in such a case, who for like reasons would require that of their neighbors. So apt and forcible an illustration of the necessity of a uniformity throughout all the States could not but favour the passage of a Resolution which proposed a Convention having that for its object.

The comissioners appointed by the Legisl: & who attended the Convention were E. Randolph the attorney of the state St. Geo: Tucker & J. M. The designation of the time & place to be proposed for its meeting, and communicated to the states having been left to the Com[rs] they named for the time early September and for the place the City of Annapolis avoiding the residences of Cong[s] and large Comẽrcial Cities as liable to suspicions of an extraneous influence.

Altho' the invited Meeting appeared to be generally favored, five states only assembled ; some failing to make appointments, and some of the individuals appointed not hastening their attendance, the result in both cases being ascribed mainly, to a belief that the time had not arrived for such a political reform, as might be expected from a further experience of its necessity.

But in the interval between the proposal of the Convention, and the time of its meeting such had been the advance of public opinion in the desired direction, stimulated as it had been by the effect of the contemplated object, of the meeting, in turning the general attention to the Critical State of things, and in calling forth the sentiments and exertions of the most enlightened & influential patriots, that the Convention thin as it was did not scruple to decline the limited task assigned to it and to recommend to the States a Convention with powers adequate to the occasion. Nor

was it unnoticed that the commission of the N. Jersey Deputation had extended its object to a general provision for the exigencies of the Union A recommendation for this enlarged purpose was accordingly reported by a Com^e^ to whom the subject had been referred. It was drafted by Col: H., and finally agreed to unanimously in the following form. Insert it.[1]

[1] The adoption of the address was the only thing done by the Annapolis meeting. The draft was submitted by Hamilton at a conference and some of the more radical features were toned down at the insistence of Randolph. Madison said to Hamilton: "You had better yield to this man, for otherwise all Virginia will be against you."—Morse's Hamilton, I, 167. The address was as follows:

* * * "Deeply impressed, however, with the magnitude and importance of the object confided to them on this occasion, your Commissioners cannot forbear to indulge an expression of their earnest and unanimous wish, that speedy measures may be taken to effect a general meeting of the States in a future Convention, for the same and such other purposes, as the situation of public affairs may be found to require.

"If, in expressing this wish, or in intimating any other sentiment, your Commissioners should seem to exceed the strict bounds of their appointment, they entertain a full confidence, that a conduct dictated by an anxiety for the welfare of the United States will not fail to receive an indulgent construction.

"In this persuasion, your Commissioners submit an opinion, that the idea of extending the powers of their Deputies to other objects than those of commerce, which has been adopted by the State of New Jersey, was an improvement on the original plan, and will deserve to be incorporated into that of a future Convention. They are the more naturally led to this conclusion, as, in the course of their reflections on the subject, they have been induced to think that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the Federal Government, that to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the Federal System.

"That there are important defects in the system of the Federal Government, is acknowledged by the acts of all those States which have concurred in the present meeting. That the defects, upon a closer examination, may be found greater and more numerous than even these acts imply, is at least so far probable, from the embarrassments which characterize the present state of our national affairs, foreign and domestic, as may reasonably be supposed to merit a deliberate and candid discussion, in some mode which will unite the sentiments and councils of all the States. In the choice of the mode, your Commissioners are of opinion, that a Convention of deputies from the different States, for the special and sole purpose of entering into this investigation, and digesting a plan for supplying such defects as may be discovered to exist, will be entitled

The recommendation was well rec^{d} by the Legislature of Virg^{a}., which happened to be the *first* that *acted* on it, the example of her compliance was made as conciliatory and impressive as possible. The Legislature were unanimous or very nearly so on the occasion, and as a proof of the magnitude & solemnity attached to it, they placed Genl W. at the head of the Deputation from the State; and as a proof of the deep interest he felt in the case he overstepped the obstacles to his acceptance of the appointment.[1]

The law[2] complying with the recommendation[3] from Annapolis was in the terms following :[4]

---

to a preference, from considerations which will occur without being particularized.

"Your Commissioners decline an enumeration of those national circumstances on which their opinion, respecting the propriety of a future Convention with more enlarged powers, is founded ; as it would be an useless intrusion of facts and observations, most of which have been frequently the subject of public discussion, and none of which can have escaped the penetration of those to whom they would in this instance be addressed. They are, however, of a nature so serious, as, in the view of your Commissioners, to render the situation of the United States delicate and critical, calling for an exertion of the united virtue and wisdom of all the members of the Confederacy.

" Under this impression, your Commissioners, with the most respectful deference, beg leave to suggest their unanimous conviction, that it may essentially tend to advance the interests of the Union, if the States by whom they have been respectively delegated would themselves concur, and use their endeavors to procure the concurrence of the other States, in the appointment of Commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States ; to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union ; and to report such an act for that purpose, to the United States in Congress assembled, as, when agreed to by them, and afterwards confirmed by the Legislatures of every State, will effectually provide for the same.

" Though your Commissioners could not with propriety address these observations and sentiments to any but the States they have the honor to represent, they have nevertheless concluded, from motives of respect, to transmit copies of this Report to the United States in Congress assembled, and to the Executives of the other States."

[1] " Trust " also appears.

[2] " Bill " and " act " also appear.

[3] " Bill " also appears.

[4] It was written by Madison :

" Whereas, the Commissioners who assembled at Annapolis, on the fourteenth day of September last, for the purpose of devising and reporting the means of

A resort to a General Convention to remodel the Confederacy, was not a new idea. It had entered at an early date into the conversations and speculations of the most reflecting & foreseeing

enabling Congress to provide effectually for the commercial interests of the United States, have represented the necessity of extending the revision of the Federal system to all its defects; and have recommended that deputies for that purpose be appointed by the several Legislatures, to meet in Convention in the City of Philadelphia, on the second Monday of May next,—a provision which seems preferable to a discussion of the subject in Congress, where it might be too much interrupted by the ordinary business before them, and where it would, besides, be deprived of the valuable counsels of sundry individuals who are disqualified by the constitutions or laws of particular States, or restrained by peculiar circumstances from a seat in that Assembly:

"And whereas, the General Assembly of this Commonwealth, taking into view the actual situation of the Confederacy, as well as reflecting on the alarming representations made from time to time, by the United States in Congress, particularly in their act of the fifteenth day of February last, can no longer doubt that the crisis is arrived at which the good people of America are to decide the solemn question, whether they will, by wise and magnanimous efforts, reap the just fruits of that independence which they have so gloriously acquired, and of that union which they have cemented with so much of their common blood; or whether, by giving way to unmanly jealousies and prejudices, or to partial and transitory interests, they will renounce the auspicious blessings prepared for them by the Revolution, and furnish to its enemies an eventual triumph over those, by whose virtue and valour, it has been accomplished:

"And whereas, the same noble and extended policy, and the same fraternal and affectionate sentiments, which originally determined the citizens of this Commonwealth to unite with their brethren of the other States, in establishing a federal government, cannot but be felt with equal force now, as motives to lay aside every inferior consideration, and to concur in such farther concessions and provisions, as may be necessary to secure the great objects for which that government was instituted, and to render the United States as happy in peace, as they have been glorious in war.

"Be it, therefore, enacted, by the General Assembly of the Commonwealth of Virginia, That seven Commissioners be appointed by joint ballot of both Houses of Assembly, who, or any three of them, are hereby authorized as Deputies of this Commonwealth, to meet such Deputies as may be appointed and authorized by other States, to assemble in Convention at Philadelphia, as above recommended, and to join with them in devising and discussing all such alterations and farther provisions, as may be necessary to render the Federal Constitution adequate to the exigencies of the Union; and in reporting such an act for that purpose, to the United States in Congress, as when agreed to by them,

observers of the inadequacy of the powers allowed to Congress.[1] In a pamphlet published in May 81 at the seat of Cong[s] Pelatiah Webster an able tho' not conspicuous Citizen, after discussing the fiscal system of the U. States, and suggesting among other remedial provisions including national Bank remarks that "the Authority of Cong[s], at present is very inadequate to the performance of their duties; and this indicates the necessity of their calling a *Continental Convention* for the express purpose of ascertaining, defining, enlarging and limiting, the duties & powers of their Constitution."

On the 1. day of Ap[l], 1783, Col: Hamilton, in a debate in Cong[s] observed that[2]

He alluded probably to (see life of Schuyler in Longacre[3]—)

It does not appear however that his expectation had been fulfilled.

In a letter to J. M. from R. H. Lee then President of Cong[s] dated Nov[r] 26, 1784 He says:[4]

The answer of J. M. remarks[5]

---

and duly confirmed by the several States, will effectually provide for the same.

"And be it further enacted, That in case of the death of any of the said deputies, or of their declining their appointments, the Executive are hereby authorized to supply such vacancies; and the Governor is requested to transmit forthwith a copy of this act to the United States in Congress, and to the Executives of each of the States in the Union."

[1] See Alexander Hamilton to James Duane, Sept. 3, 1780. Works of Hamilton (Lodge), i., 203.

[2] — he wished to see a general convention with the object of strengthening the federal constitution instead of several conventions of representatives of the several sections of the country. Vol. i., 439, of this edition.

[3] The reference is incorrect, and should be to the sketch of *Hamilton* in Longacre, Vol. ii.: "The same legislature [of 1782] that appointed him [Hamilton] unanimously passed resolutions, introduced into the senate by General Schuyler, declaring that the confederation was defective in not giving congress power to provide revenue for itself, or in not investing them with funds from established and productive sources; and that it would be advisable to revise and amend the confederation."

[4] — that a general convention to revise the articles of confederation is being talked about in congress.

[5] — that he favors the project, but doubts if it is favored in Virginia. See his letter to Lee, December 24, 1784, ante.

In 1785, Noah Webster whose pol & other valuable writings had made him known to the Public, in one of his publications, of American policy brought into view the same resort for supplying the defects Fed[l] System (see his life in Longacre)[1]

The proposed & expected Convention at Annapolis the first of a general character that appears to have been realized, & the state of the public mind awakened by it, had attracted the particular attention of Cong[s] and favored the idea there of a Convention with fuller powers for amending the Confederacy. to J. M. letters of Monroe of Grayson.[2]

[1] "Sketches of American Policy," published in the winter of 1784–85. Longacre Vol. ii.

[2] Cf. the letters of Monroe to Madison, December 26, 1785, February 11 and March 19, 1786. *Writings of Monroe*, i., 109, 122, 123. The letter of Grayson is dated New York, March 22, 1786:

* * * * * * * *

"There has been a great contest in Jersey for the Argent papier; but though it went triumphantly through the lower house, it was lost in the Council, 8 to 5, —some of the Members who were adverse to it, have been burnt in effigy, in particular Col[o] Ogden at or near Elizabeth town: the old Governor was drawn up to the Stake but pardoned, on account of his having been the first magistrate: This same Jersey bill was one of the most iniquitous things I ever saw in my life; the money was a tender; if it was refused, the debt was suspended for 12 years, in the mean time the act of limitation ran of course, which in effect destroyed it.—Jersey has not been singular in her attempts at cheating: in this place a bill is depending, of the same purport as that of Jersey, & which it is probable will pass, although it is violently opposed by the upright & respectable part of the Comm[y]. The Antients were surely men of more candor than We are; they contended openly for an abolition of debts in so many words, while we strive as hard for the same thing under the decent & specious pretense of a circulating medium. Montesquieu was not wrong when he said the democratical might be as tyranical as the despotic, for where is there a greater act of despotism than that of issuing paper to depreciate for the purpose of paying debts, on easy terms; If Lord Effingham is right that an act ag[t] the Constitution is void, surely paper money with a tender annexed to it is void for is it not an attack upon property, the security of which is made a fundamental in every State in the Union:—There has been some serious thoughts in the minds of some of the Members of Congress to recommend to the States the meeting of a general Convention, to consider, of an alteration of the Confederation & there is a motion to this effect now under Consideration: it is contended that the present Confederation is utterly inefficient, and that if it remains much longer in its present State of imbecillity we shall be one of the most contemptible

It does not appear that in any of these cases, the reform system was to be otherwise sanctioned than by the Legislative auth^{y} of the States; nor whether nor how far a change was to be made in the structure of the Depository of the Federal powers.

The act of Virg^{a} providing for the Convention at Philad^{a}, was succeeded by appointments from the other states as their Legislatures were assembled, the appointments being selections from the most experienced & highest [1] standing Citizens. Rh. Is. was the only exception to a compliance with the recommendation from Annapolis, well known to have been swayed by an obdurate adherence to an advantage which her position gave her of taxing her neighbors thro' their consumption of imported supplies, an advantage which it was forseen would be taken from her by a revisal of the "articles of Confederation."

As the pub. mind had been ripened for a salutary Reform of the pol. System, in the interval between the proposal & the meeting of the Com^{rs} at Annapolis, the interval between the last event, and the meeting of Dep^{s} at Phil^{a} had continued to develope more & more the necessity & the extent of a systematic provision for the preservation and Gov^{t} of the Union. Among the ripening incidents was the Insurrection of Shays, in Mass^{ts}, against her Gov^{t}; which was with difficulty suppressed, notwithstanding the influence on the insurgents of an apprehended interposition of the Fed^{l} troops.

At the date of the Convention, the aspect & retrospect of the pol. condition of the U. S. could not but fill the pub. mind with a gloom which was relieved only by a hope that so select a Body would devise an adequate remedy for the existing and prospective evils so impressively demanding it.

It was seen that the public debt rendered so sacred by the

Nations on the face of the Earth:—for my own part I have not yet made up my mind on the subject: I am doubtful whether it is not better to bear those ills we have than fly to others that we know not of: I am however in no doubt about the weakness of the foederal Government: if it was weaker notwithstanding, it would answer if the States had power as in the United Netherlands the foederal Government is weak but the Individual States are strong—It is no wonder our Government should not work well, being formed on the Dutch model where circumstances are so materially different:— * * * ."

[1] "High" also appears.

cause in which it had been incurred remained without any provision for its payment. The reiterated and elaborate efforts of Cong. to procure from the States a more adequate power to raise the means of payment had failed. The effect of the ordinary requisitions of Congress had only displayed the inefficiency of the auth^{y} making them; none of the States having duly complied with them, some having failed altogether or nearly so; and in one instance, that of N. Jersey, a compliance was *expressly* refused; nor was more yielded to the expostulations of members of Cong^{s} deputed to her Legislature, than a mere repeal of the law, without a compliance (see letter of Grayson to J. M.).

The want of Auth^{y} in Cong^{s} to regulate Commerce had produced in Foreign nations particularly G. B., a monopolizing policy injurious to the trade of the U. S., and destructive to their navigation; the imbecility and anticipated dissolution of the Confederacy extinguish^{g} all apprehensions of a Countervailing policy on the part of the U. States.

The same want of a general power over Commerce led to an exercise of the power separately, by the States, wch not only proved abortive, but engendered rival, conflicting and angry regulations. Besides the vain attempts to supply their respective treasuries by imposts, which turned their commerce into the neighbouring ports, and to coerce a relaxation of the British monopoly of the W. Ind^{a} navigation, which was attempted by Virginia,[1] (see Journal of) the States having ports for foreign commerce, taxed & irritated the adjoining States, trading thro' them, as N. Y., Pen^{a}, Virg^{a} & S. Carolina. Some of the States, as Connecticut, taxed imports as from Mass^{ts}, higher than imports even from G. B. of wch Mass^{ts} complained to Virg^{a} and doubtless to other States (see letter of J. M.). In sundry instances as of N. Y., N. J., P^{a} & Maryl^{d}, (see). The navigation laws treated the Citizens of other States as aliens.

In certain cases the Auth^{y} of the Confederacy was disregarded, as in violation not only of the Treaty of peace; but of Treaties with France & Holland, which were complained of to Cong^{s}.

[1] The allusion is to the act of the Virginia Assembly passed January 21, 1786, imposing a tonnage tax of 5*s*. on vessels of foreigners, described in Madison's letter to Monroe of January 22, 1786, ante.

In other cases the Fed[l] Auth[y] was violated by Treaties & wars with Indians, as by Geo.; by troops raised & kept up with[t] the consent of Cong[s], as by Mass[ts]; by compacts with[t] the consent of Cong[s], as between Pen[a] and N. Jersey, and between Virg[a] & Maryl[d]. From the Legisl: Journals of Virg[a] it appears, that a vote refusing to apply for a sanction of Cong[s] was followed by a vote ag[st] the communication of the Compact to Cong[s].

In the internal administration of the States a violation of Contracts had become familiar in the form of depreciated paper made a legal tender, of property substituted for money, of Instalment laws, and of the occlusions of the Courts of Justice; although evident that all such interferences affected the rights of other States, Relatively creditor, as well as Citizens Creditors within the State.

Among the defects which had been severely felt was that of a uniformity in cases requiring it, as laws of naturalization and bankruptcy, a Coercive authority operating on individuals and a guaranty of the internal tranquillity of the States.

As a natural consequence of this distracted and disheartening condition[1] of the union, the Fed[l] Auth[y] had ceased to be respected abroad, and dispositions were shewn there, particularly in G. B., to take advantage of its imbecility, and to speculate on its approaching downfall: At home it had lost all confidence & credit; the unstable and unjust career of the States had also forfeited the respect & confidence essential to order and good Govt[t] involving a general decay of confidence between Man & man. It was found moreover that those least partial to popular Gov[t], or most distrustful of its efficacy were yielding to anticipations, that from an increase of the confusion a Gov[t] might result more congenial with their taste or their opinions. Whilst those most devoted to the principles and forms of Republics, were alarmed for the cause of liberty itself, at stake in the American Experiment, and anxious for a system that w[d] avoid the inefficacy of a mere confederacy without passing into the opposite extreme of a consolidated gov[t] It was known that there were individuals who had betrayed a bias towards Monarchy (see Knox to G. W. and him

[1] "appearances" also appears.

to Jay,) (Marshall's life [1]) and there had always been some not unfavorable to a partition of the Union into several Confederacies ; either from a better chance of figuring on a Sectional Theatre, or that the Sections would require stronger Gov^ts^, or by their hostile conflicts lead to a monarchical consolidation. The idea of a dismemberment had recently made its appearance in the Newspapers.

Such were the defects, the deformities, the diseases and the

[1] June 27, 1786, Jay wrote to Washington: "What I most fear is, that the better kind of people (by which I mean the people who are orderly and industrious, who are content with their situations, and not uneasy in their circumstances) will be led by the insecurity of property, the loss of confidence in their rulers, and the want of public faith and rectitude, to consider the charms of liberty as imaginary and delusive. A state of uncertainty and fluctuation must disgust and alarm such men, and prepare their minds for almost any change that may promise them quiet and security." In the course of his reply Washington said: "What astonishing changes a few years are capable of producing! I am told that even respectable characters speak of a monarchical form of government without horror. From thinking, proceeds speaking, thence to acting is often but a single step. But how irrevocable and tremendous! what a triumph for our enemies to verify their predictions!—what a triumph for the advocates of despotism to find that we are incapable of governing ourselves, and that systems founded on the basis of equal liberty are merely ideal and fallacious! Would to God that wise measures may be taken in time to avert the consequences we have but too much reason to apprehend."—Marshall's *Washington* (2^d^ Ed.), ii., 107, 109.

From New York, October 28, 1786, Knox wrote to Washington as follows:

". . . Our political machine constituted of thirteen independent sovereignties, have [sic] been constantly operating against each other, and against the federal head, ever since the peace. The powers of Congress are utterly inadequate to preserve the balance between the respective States, and oblige them to do those things which are essential to their own welfare, and for the general good. The human mind in the local legislatures seems to be exerted, to prevent the federal constitution from having any beneficial effects. The machine works inversely to the public good in all its parts. Not only is State against State, and all against the federal head, but the States within themselves possess the name only, without having the essential concomitant of government, the power of preserving the peace, the protection of the liberties and property of the citizens.

"On the first impression of Faction and licentiousness the fine theoretic government of Massachusetts has given way, and its laws arrested and trampled under foot. Men at a distance, who have admired our systems of government,

ominous prospects, for which the Convention were to provide a remedy, and which ought never to be overlooked in expounding & appreciating the Constitutional Charter, the remedy that was provided.

As a sketch on paper, the earliest perhaps wch of a Constitutional Gov^t^ for the Union (organized into the regular Departments with physical means operating on individuals) to be sanctioned

---

unfounded in nature, are apt to accuse the rulers, and say that taxes have been assessed too high and collected too rigidly. This is a deception equal to any that has hitherto been entertained. It is indeed a fact, that high taxes are the ostensible cause of the commotions, but that they are the real cause is as far remote from truth as light from darkness. The people who are the insurgents have never paid any, or but very little taxes. But they see the weakness of government; They feel at once their own poverty, compared with the opulent, and their own force, and they are determined to make use of the latter, in order to remedy the former. Their creed is 'That the property of the United States has been protected from the confiscation of Great Britain by the joint exertions of all, and therefore ought to be the common property of all. And he that attempts opposition to this creed is an enemy to equity and justice, and ought to be swept from off the face of the earth.' In a word they are determined to annihilate all debts public and private and have agrarian Laws, which are easily affected by the means of unfortunate paper money which shall be a tender in all cases whatever.

"The numbers of these people amount in Massachusetts to about one fifth part of several populous counties, and to them may be collected, people of similar sentiments, from the States of Rhode Island, Connecticut and New Hampshire so as to constitute a body of 12 or 15000 desperate & unprincipled men. They are chiefly of the young and active part of the community, more easily collected than perhaps kept together afterwards. But they will probably commit overt acts of treason, which will compell them to embody for their own safety—once embodied they will be constrained to submit to discipline for the same reason. Having proceeded to this length for which they are now ripe, we shall have a formidable rebellion against reason, the principles of all government, and the very name of liberty. This dreadful situation has alarmed every man of principle and property in New England. They start as from a dream, and ask what has been the cause of our delusion? what is to afford us security against the violence of lawless men? Our government must be braced, changed, or altered to secure our lives and property. We imagined that the mildness of our government and *the virtue* of the people were so correspondent, that we were not as other nations requiring brutal force to support the laws. But we find that we are men, actual men, possessing all the turbulent passions belonging to that animal and that we must have government proper and adequate

by *the people of the States*, acting in their original & sovereign character, was contained in a letter from J. M. of Apl 8 1787 to Gov.r Randolph, a copy of the latter is here inserted.

The feature in the letter which vested in the general Auth.y a negative on the laws of the States, was suggested by the negative in the head of the British Empire, which prevented collisions between the parts & the whole, and between the parts themselves. It was supposed that the substitution, of an elective and responsible authority for an hereditary and irresponsible one, would avoid the appearance even of a departure from the principle of Republicanism. But altho' the subject was so viewed in the Convention, and the votes on it were more than once equally divided, it was finally & justly abandoned, as apart from other objections it was not practicable among so many states increasing in number and enacting each of them so many laws. Instead of the proposed negative, the objects of it were left as finally provided for in the Constitution.

On the arrival of the Virginia Deputies at Philad.a, it occurred to them that from the early and prominent part taken by that State in bringing about the Convention some initiative step might be expected from them. The Resolutions introduced by Governor Randolph were the result of a Consultation on the subject; with an understanding that they left all the Deputies entirely open

for him. The people of Massachusetts for instance, are far advanced in this doctrine, and the men of reflection, & principle, are determined to endeavor to establish a government which shall have the power to protect them in their lawful pursuits, and which will be efficient in all cases of internal commotions or foreign invasions. They mean that liberty shall be the basis, a liberty resulting from the equal and firm administration of the laws. They wish for a general government of unity as they see the local legislatures, must naturally and necessarily tend to retard and frustrate all general government.

"We have arrived at that point of time in which we are forced to see our national humiliation, and that a progression in this line, cannot be productive of happiness either public or private. Something is wanting and something must be done or we shall be involved in all the horror of faction and civil war without a prospect of its termination. Every tried friend to the liberties of his country is bound to reflect, and to step forward to prevent the dreadful consequences which will result from a government of events. Unless this is done we shall be liable to be ruled by an arbitrary and capricious armed tyranny, whose word and will must be law. . . ."—*Wash. MSS.*

to the lights of discussion, and free to concur in any alterations or modifications which their reflections and judgments might approve. The Resolutions as the Journals shew became the basis on which the proceedings of the Convention commenced, and to the developments, variations and modifications of which the plan of Govt proposed by the Convention may be traced.

The curiosity I had felt during my researches into the History of the most distinguished Confederacies, particularly those of antiquity, and the deficiency I found in the means of satisfying it more especially in what related to the process, the principles, the reasons, & the anticipations, which prevailed in the formation of them, determined me to preserve as far as I could an exact account of what might pass in the Convention whilst executing its trust, with the magnitude of which I was duly impressed, as I was with the gratification promised to future curiosity by an authentic exhibition of the objects, the opinions, & the reasonings from which the new System of Govt was to receive its peculiar structure & organization. Nor was I unaware of the value of such a contribution to the fund of materials for the History of a Constitution on which would be Staked the happiness of a people great even in its infancy, and possibly [1] the cause of liberty throughout the world.

In pursuance of the task I had assumed I chose a seat in front of the presiding member, with the other members on my right & left hands. In this favorable position for hearing all that passed, I noted in terms legible & in abbreviations & marks intelligible to myself what was read from the Chair or spoken by the members; and losing not a moment unnecessarily between the adjournment & reassembling of the Convention I was enabled to write out my daily notes during the session or within a few finishing days after its close, in the extent and form preserved in my own hand on my files.

In the labor and correctness of this I was not a little aided by practice, and by a familiarity with the style and the train of observation and reasoning which characterized the principal speakers. It happened, also, that I was not absent a single day, nor

[1] "perhaps" also appears.

more than a casual fraction of an hour in any day, so that I could not have lost a single speech unless a very short one.

It may be proper to remark, that, with a very few exceptions, the speeches were neither furnished, nor revised, nor sanctioned, by the speakers, but written out from my notes, aided by the freshness of my recollections. A further remark may be proper, that views of the subject might occasionally be presented, in the speeches and proceedings, with a latent reference to a compromise on some middle ground, by mutual concessions. The exceptions alluded to were,—first, the sketch furnished by Mr. Randolph of his speech on the introduction of his propositions, on the twenty-ninth day of May; secondly, the speech of Mr. Hamilton, who happened to call on me when putting the last hand to it, and who acknowledged its fidelity, without suggesting more than a very few verbal alterations which were made; thirdly, the speech of Gouverneur Morris on the second day of May, which was communicated to him on a like occasion, and who acquiesced in it without even a verbal change. The correctness of his language and the distinctness of his enunciation were particularly favorable to a reporter. The speeches of Doctor Franklin, excepting a few brief ones, were copied from the written ones read to the Convention by his colleague, Mr. Wilson, it being inconvenient to the Doctor to remain long on his feet.

Of the ability and intelligence of those who composed the Convention the debates and proceedings may be a test; as the character of the work which was the offspring of their deliberations must be tested by the experience of the future, added to that of nearly half a century which has passed.

But whatever may be the judgment pronounced on the competency of the architects of the Constitution, or whatever may be the destiny of the edifice prepared by them, I feel it a duty to express my profound and solemn conviction, derived from my intimate opportunity of observing and appreciating the views of the Convention, collectively and individually, that there never was an assembly of men, charged with a great and arduous trust, who were more pure in their motives, or more exclusively or anxiously devoted to the object committed to them, than were the members of the Federal Convention of 1787, to the

object of devising and proposing a constitutional system which should best supply the defects of that which it was to replace, and best secure the permanent liberty and happiness of their country.

END OF VOLUME II.

Stanford University Libraries
3 6105 010 350 861
308
M182
STANFORD UNIVERSITY LIBRARIES
STANFORD AUXILIARY LIBRARY
STANFORD, CALIFORNIA 94305-6004
(415) 723-9201
All books may be recalled after 7 days
DATE DUE
28D JUN 16 1997
DEC 08 1997
28D DEC 1997
JUN 28 1999
JUN 30 1999
FEB 08 2000
JUN 30 2000
JUN 30 2000
JUL 03 2000
AUG 18 2004
SEP 17 2004